116TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 116–39
Part 1

TAXPAYER FIRST ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ON

H.R. 1957

[Including cost estimate of the Congressional Budget Office]

APRIL 9, 2019.—Ordered to be printed

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89–006 WASHINGTON : 2019

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TAXPAYER FIRST ACT OF 2019

APRIL 9, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. NEAL, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 1957]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1957) to amend the Internal Revenue Code of 1986 to modernize and improve the Internal Revenue Service, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer First Act of 2019".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—PUTTING TAXPAYERS FIRST

Subtitle A—Independent Appeals Process

SEC. 1001. ESTABLISHMENT OF INTERNAL REVENUE SERVICE INDEPENDENT OFFICE OF APPEALS.

(a) IN GENERAL.—Section 7803 is amended by adding at the end the following new subsection:

"(e) INDEPENDENT OFFICE OF APPEALS.—

"(1) ESTABLISHMENT.—There is established in the Internal Revenue Service an office to be known as the 'Internal Revenue Service Independent Office of Appeals'.

"(2) CHIEF OF APPEALS.—

"(A) IN GENERAL.—The Internal Revenue Service Independent Office of Appeals shall be under the supervision and direction of an official to be known as the 'Chief of Appeals'. The Chief of Appeals shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

"(B) APPOINTMENT.—The Chief of Appeals shall be appointed by the Commissioner of Internal Revenue without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

"(C) QUALIFICATIONS.—An individual appointed under subparagraph (B) shall have experience and expertise in—

"(i) administration of, and compliance with, Federal tax laws,

"(ii) a broad range of compliance cases, and

"(iii) management of large service organizations.

"(3) PURPOSES AND DUTIES OF OFFICE.—It shall be the function of the Internal Revenue Service Independent Office of Appeals to resolve Federal tax controversies without litigation on a basis which—

"(A) is fair and impartial to both the Government and the taxpayer,

"(B) promotes a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and

"(C) enhances public confidence in the integrity and efficiency of the Internal Revenue Service.

"(4) RIGHT OF APPEAL.—The resolution process described in paragraph (3) shall be generally available to all taxpayers.

"(5) LIMITATION ON DESIGNATION OF CASES AS NOT ELIGIBLE FOR REFERRAL TO INDEPENDENT OFFICE OF APPEALS.—

"(A) IN GENERAL.—If any taxpayer which is in receipt of a notice of deficiency authorized under section 6212 requests referral to the Internal Revenue Service Independent Office of Appeals and such request is denied, the Commissioner of Internal Revenue shall provide such taxpayer a written notice which—

"(i) provides a detailed description of the facts involved, the basis for the decision to deny the request, and a detailed explanation of how the basis of such decision applies to such facts, and

"(ii) describes the procedures prescribed under subparagraph (C) for protesting the decision to deny the request.

"(B) REPORT TO CONGRESS.—The Commissioner of Internal Revenue shall submit a written report to Congress on an annual basis which includes the number of requests described in subparagraph (A) which were denied and the reasons (described by category) that such requests were denied.

"(C) PROCEDURES FOR PROTESTING DENIAL OF REQUEST.—The Commissioner of Internal Revenue shall prescribe procedures for protesting to the Commissioner of Internal Revenue a denial of a request described in subparagraph (A).

"(D) NOT APPLICABLE TO FRIVOLOUS POSITIONS.—This paragraph shall not apply to a request for referral to the Internal Revenue Service Independent Office of Appeals which is denied on the basis that the issue involved is a frivolous position (within the meaning of section 6702(c)).

"(6) STAFF.—

"(A) IN GENERAL.—All personnel in the Internal Revenue Service Independent Office of Appeals shall report to the Chief of Appeals.

"(B) ACCESS TO STAFF OF OFFICE OF THE CHIEF COUNSEL.—The Chief of Appeals shall have authority to obtain legal assistance and advice from the staff of the Office of the Chief Counsel. The Chief Counsel shall ensure, to the extent practicable, that such assistance and advice is provided by staff of the Office of the Chief Counsel who were not involved in the case with respect to which such assistance and advice is sought and who are not involved in preparing such case for litigation.

"(7) ACCESS TO CASE FILES.—

"(A) IN GENERAL.—In any case in which a conference with the Internal Revenue Service Independent Office of Appeals has been scheduled upon request of a specified taxpayer, the Chief of Appeals shall ensure that such taxpayer is provided access to the nonprivileged portions of the case file on record regarding the disputed issues (other than documents provided by the taxpayer to the Internal Revenue Service) not later than 10 days before the date of such conference.

"(B) TAXPAYER ELECTION TO EXPEDITE CONFERENCE.—If the taxpayer so elects, subparagraph (A) shall be applied by substituting 'the date of such conference' for '10 days before the date of such conference'.

"(C) SPECIFIED TAXPAYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'specified taxpayer' means—

"(I) in the case of any taxpayer who is a natural person, a taxpayer whose adjusted gross income does not exceed $400,000 for the taxable year to which the dispute relates, and

"(II) in the case of any other taxpayer, a taxpayer whose gross receipts do not exceed $5,000,000 for the taxable year to which the dispute relates.

"(ii) AGGREGATION RULE.—Rules similar to the rules of section 448(c)(2) shall apply for purposes of clause (i)(II).".

(b) CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking "Internal Revenue Service Office of Appeals" and inserting "Internal Revenue Service Independent Office of Appeals":

(A) Section 6015(c)(4)(B)(ii)(I).
(B) Section 6320(b)(1).
(C) Subsections (b)(1) and (d)(3) of section 6330.
(D) Section 6603(d)(3)(B).
(E) Section 6621(c)(2)(A)(i).
(F) Section 7122(e)(2).
(G) Subsections (a), (b)(1), (b)(2), and (c)(1) of section 7123.
(H) Subsections (c)(7)(B)(i) and (g)(2)(A) of section 7430.
(I) Section 7522(b)(3).
(J) Section 7612(c)(2)(A).

(2) Section 7430(c)(2) is amended by striking "Internal Revenue Service Office of Appeals" each place it appears and inserting "Internal Revenue Service Independent Office of Appeals".

(3) The heading of section 6330(d)(3) is amended by inserting "INDEPENDENT" after "IRS".

(c) OTHER REFERENCES.—Any reference in any provision of law, or regulation or other guidance, to the Internal Revenue Service Office of Appeals shall be treated as a reference to the Internal Revenue Service Independent Office of Appeals.

(d) SAVINGS PROVISIONS.—Rules similar to the rules of paragraphs (2) through (6) of section 1001(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 shall apply for purposes of this section (and the amendments made by this section).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ACCESS TO CASE FILES.—Section 7803(e)(7) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to conferences occurring after the date which is 1 year after the date of the enactment of this Act.

Subtitle B—Improved Service

SEC. 1101. COMPREHENSIVE CUSTOMER SERVICE STRATEGY.

(a) IN GENERAL.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary's delegate) shall submit to Congress a written comprehensive customer service strategy for the Internal Revenue Service. Such strategy shall include—

(1) a plan to provide assistance to taxpayers that is secure, designed to meet reasonable taxpayer expectations, and adopts appropriate best practices of customer service provided in the private sector, including online services, telephone call back services, and training of employees providing customer services;

(2) a thorough assessment of the services that the Internal Revenue Service can co-locate with other Federal services or offer as self-service options;

(3) proposals to improve Internal Revenue Service customer service in the short term (the current and following fiscal year), medium term (approximately 3 to 5 fiscal years), and long term (approximately 10 fiscal years);

(4) a plan to update guidance and training materials for customer service employees of the Internal Revenue Service, including the Internal Revenue Manual, to reflect such strategy; and

(5) identified metrics and benchmarks for quantitatively measuring the progress of the Internal Revenue Service in implementing such strategy.

(b) UPDATED GUIDANCE AND TRAINING MATERIALS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary's delegate) shall make available the updated guidance and training materials described in subsection (a)(4) (including the Internal Revenue Manual). Such updated guidance and training materials (including the Internal Revenue Manual) shall be written in a manner so as to be easily understood by customer service employees of the Internal Revenue Service and shall provide clear instructions.

SEC. 1102. IRS FREE FILE PROGRAM.

(a) IN GENERAL.—

(1) The Secretary of the Treasury, or the Secretary's delegate, shall continue to operate the IRS Free File Program as established by the Internal Revenue Service and published in the Federal Register on November 4, 2002 (67 Fed. Reg. 67247), including any subsequent agreements and governing rules established pursuant thereto.

(2) The IRS Free File Program shall continue to provide free commercial-type online individual income tax preparation and electronic filing services to the lowest 70 percent of taxpayers by adjusted gross income. The number of taxpayers eligible to receive such services each year shall be calculated by the Internal Revenue Service annually based on prior year aggregate taxpayer adjusted gross income data.

(3) In addition to the services described in paragraph (2), and in the same manner, the IRS Free File Program shall continue to make available to all taxpayers (without regard to income) a basic, online electronic fillable forms utility.

(4) The IRS Free File Program shall continue to work cooperatively with the private sector to provide the free individual income tax preparation and the electronic filing services described in paragraphs (2) and (3).

(5) The IRS Free File Program shall work cooperatively with State government agencies to enhance and expand the use of the program to provide needed benefits to the taxpayer while reducing the cost of processing returns.

(b) INNOVATIONS.—The Secretary of the Treasury, or the Secretary's delegate, shall work with the private sector through the IRS Free File Program to identify and implement, consistent with applicable law, innovative new program features to improve and simplify the taxpayer's experience with completing and filing individual income tax returns through voluntary compliance.

SEC. 1103. LOW-INCOME EXCEPTION FOR PAYMENTS OTHERWISE REQUIRED IN CONNECTION WITH A SUBMISSION OF AN OFFER-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122(c) is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR LOW-INCOME TAXPAYERS.—Paragraph (1), and any user fee otherwise required in connection with the submission of an offer-in-compromise, shall not apply to any offer-in-compromise with respect to a taxpayer who is an individual with adjusted gross income, as determined for the most recent taxable year for which such information is available, which does not exceed 250 percent of the applicable poverty level (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to offers-in-compromise submitted after the date of the enactment of this Act.

Subtitle C—Sensible Enforcement

SEC. 1201. INTERNAL REVENUE SERVICE SEIZURE REQUIREMENTS WITH RESPECT TO STRUCTURING TRANSACTIONS.

Section 5317(c)(2) of title 31, United States Code, is amended—

(1) by striking "Any property" and inserting the following:

"(A) IN GENERAL.—Any property"; and

(2) by adding at the end the following:

"(B) INTERNAL REVENUE SERVICE SEIZURE REQUIREMENTS WITH RESPECT TO STRUCTURING TRANSACTIONS.—

"(i) PROPERTY DERIVED FROM AN ILLEGAL SOURCE.—Property may only be seized by the Internal Revenue Service pursuant to subparagraph (A) by reason of a claimed violation of section 5324 if the property to be seized was derived from an illegal source or the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than section 5324.

"(ii) NOTICE.—Not later than 30 days after property is seized by the Internal Revenue Service pursuant to subparagraph (A), the Internal Revenue Service shall—

"(I) make a good faith effort to find all persons with an ownership interest in such property; and

"(II) provide each such person so found with a notice of the seizure and of the person's rights under clause (iv).

"(iii) EXTENSION OF NOTICE UNDER CERTAIN CIRCUMSTANCES.—The Internal Revenue Service may apply to a court of competent jurisdiction for one 30-day extension of the notice requirement under clause (ii) if the Internal Revenue Service can establish probable cause of an imminent threat to national security or personal safety necessitating such extension.

"(iv) POST-SEIZURE HEARING.—If a person with an ownership interest in property seized pursuant to subparagraph (A) by the Internal Revenue Service requests a hearing by a court of competent jurisdiction within 30 days after the date on which notice is provided under subclause (ii), such property shall be returned unless the court holds an adversarial hearing and finds within 30 days of such request (or such longer period as the court may provide, but only on request of an interested party) that there is probable cause to believe that there is a violation of section 5324 involving such property and probable cause to believe that the property to be seized was derived from an illegal source or the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than section 5324.".

SEC. 1202. EXCLUSION OF INTEREST RECEIVED IN ACTION TO RECOVER PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE BASED ON STRUCTURING TRANSACTION.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting before section 140 the following new section:

"SEC. 139H. INTEREST RECEIVED IN ACTION TO RECOVER PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE BASED ON STRUCTURING TRANSACTION.

"Gross income shall not include any interest received from the Federal Government in connection with an action to recover property seized by the Internal Revenue Service pursuant to section 5317(c)(2) of title 31, United States Code, by reason of a claimed violation of section 5324 of such title.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting before the item relating to section 140 the following new item:

"Sec. 139H. Interest received in action to recover property seized by the Internal Revenue Service based on structuring transaction.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received on or after the date of the enactment of this Act.

SEC. 1203. CLARIFICATION OF EQUITABLE RELIEF FROM JOINT LIABILITY.

(a) IN GENERAL.—Section 6015 is amended—

(1) in subsection (e), by adding at the end the following new paragraph:

"(7) STANDARD AND SCOPE OF REVIEW.—Any review of a determination made under this section shall be reviewed de novo by the Tax Court and shall be based upon—

"(A) the administrative record established at the time of the determination, and

"(B) any additional newly discovered or previously unavailable evidence."; and

(2) by amending subsection (f) to read as follows:

"(f) EQUITABLE RELIEF.—

"(1) IN GENERAL.—Under procedures prescribed by the Secretary, if—

"(A) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either), and

"(B) relief is not available to such individual under subsection (b) or (c), the Secretary may relieve such individual of such liability.

"(2) LIMITATION.—A request for equitable relief under this subsection may be made with respect to any portion of any liability that—

"(A) has not been paid, provided that such request is made before the expiration of the applicable period of limitation under section 6502, or

"(B) has been paid, provided that such request is made during the period in which the individual could submit a timely claim for refund or credit of such payment.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions or requests filed or pending on or after the date of the enactment of this Act.

SEC. 1204. MODIFICATION OF PROCEDURES FOR ISSUANCE OF THIRD-PARTY SUMMONS.

(a) IN GENERAL.—Section 7609(f) is amended by adding at the end the following flush sentence:

"The Secretary shall not issue any summons described in the preceding sentence unless the information sought to be obtained is narrowly tailored to information that pertains to the failure (or potential failure) of the person or group or class of persons referred to in paragraph (2) to comply with one or more provisions of the internal revenue law which have been identified for purposes of such paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after the date that is 45 days after the date of the enactment of this Act.

SEC. 1205. PRIVATE DEBT COLLECTION AND SPECIAL COMPLIANCE PERSONNEL PROGRAM.

(a) CERTAIN TAX RECEIVABLES NOT ELIGIBLE FOR COLLECTION UNDER TAX COLLECTION CONTRACTS.—Section 6306(d)(3) is amended by striking "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

"(E) a taxpayer substantially all of whose income consists of disability insurance benefits under section 223 of the Social Security Act or supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66), or

"(F) a taxpayer who is an individual with adjusted gross income, as determined for the most recent taxable year for which such information is available, which does not exceed 200 percent of the applicable poverty level (as determined by the Secretary),".

(b) DETERMINATION OF INACTIVE TAX RECEIVABLES ELIGIBLE FOR COLLECTION UNDER TAX COLLECTION CONTRACTS.—Section 6306(c)(2)(A)(ii) is amended by striking "more than ⅓ of the period of the applicable statute of limitation has lapsed" and inserting "more than 2 years has passed since assessment".

(c) MAXIMUM LENGTH OF INSTALLMENT AGREEMENTS OFFERED UNDER TAX COLLECTION CONTRACTS.—Section 6306(b)(1)(B) is amended by striking "5 years" and inserting "7 years".

(d) CLARIFICATION THAT SPECIAL COMPLIANCE PERSONNEL PROGRAM ACCOUNT MAY BE USED FOR PROGRAM COSTS.—

(1) IN GENERAL.—Section 6307(b) is amended—

(A) in paragraph (2), by striking all that follows "under such program" and inserting a period, and

(B) in paragraph (3), by striking all that follows "out of such account" and inserting "for other than program costs.".

(2) COMMUNICATIONS, SOFTWARE, AND TECHNOLOGY COSTS TREATED AS PROGRAM COSTS.—Section 6307(d)(2)(B) is amended by striking "telecommunications" and inserting "communications, software, technology".

(3) CONFORMING AMENDMENT.—Section 6307(d)(2) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) reimbursement of the Internal Revenue Service or other government agencies for the cost of administering the qualified tax collection program under section 6306.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to tax receivables identified by the Secretary (or the Secretary's delegate) after December 31, 2020.

(2) MAXIMUM LENGTH OF INSTALLMENT AGREEMENTS.—The amendment made by subsection (c) shall apply to contracts entered into after the date of the enactment of this Act.

(3) USE OF SPECIAL COMPLIANCE PERSONNEL PROGRAM ACCOUNT.—The amendment made by subsection (d) shall apply to amounts expended from the special compliance personnel program account after the date of the enactment of this Act.

SEC. 1206. REFORM OF NOTICE OF CONTACT OF THIRD PARTIES.

(a) IN GENERAL.—Section 7602(c)(1) is amended to read as follows:

"(1) GENERAL NOTICE.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer unless such contact occurs during a period (not greater than 1 year) which is specified in a notice which—

"(A) informs the taxpayer that contacts with persons other than the taxpayer are intended to be made during such period, and

"(B) except as otherwise provided by the Secretary, is provided to the taxpayer not later than 45 days before the beginning of such period.

Nothing in the preceding sentence shall prevent the issuance of notices to the same taxpayer with respect to the same tax liability with periods specified therein that, in the aggregate, exceed 1 year. A notice shall not be issued under this paragraph unless there is an intent at the time such notice is issued to contact persons other than the taxpayer during the period specified in such notice. The preceding sentence shall not prevent the issuance of a notice if the requirement of such sentence is met on the basis of the assumption that the information sought to be obtained by such contact will not be obtained by other means before such contact.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to notices provided, and contacts of persons made, after the date which is 45 days after the date of the enactment of this Act.

SEC. 1207. MODIFICATION OF AUTHORITY TO ISSUE DESIGNATED SUMMONS.

(a) IN GENERAL.—Paragraph (1) of section 6503(j) is amended by striking "coordinated examination program" and inserting "coordinated industry case program".

(b) REQUIREMENTS FOR SUMMONS.—Clause (i) of section 6503(j)(2)(A) is amended to read as follows:

"(i) the issuance of such summons is preceded by a review and written approval of such issuance by the Commissioner of the relevant operating division of the Internal Revenue Service and the Chief Counsel which—

"(I) states facts clearly establishing that the Secretary has made reasonable requests for the information that is the subject of the summons, and

"(II) is attached to such summons,".

(c) ESTABLISHMENT THAT REASONABLE REQUESTS FOR INFORMATION WERE MADE.—Subsection (j) of section 6503 is amended by adding at the end the following new paragraph:

"(4) ESTABLISHMENT THAT REASONABLE REQUESTS FOR INFORMATION WERE MADE.—In any court proceeding described in paragraph (3), the Secretary shall establish that reasonable requests were made for the information that is the subject of the summons.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date which is 45 days after the date of the enactment of this Act.

SEC. 1208. LIMITATION ON ACCESS OF NON-INTERNAL REVENUE SERVICE EMPLOYEES TO RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Section 7602 is amended by adding at the end the following new subsection:

"(f) LIMITATION ON ACCESS OF PERSONS OTHER THAN INTERNAL REVENUE SERVICE OFFICERS AND EMPLOYEES.—The Secretary shall not, under the authority of section 6103(n), provide any books, papers, records, or other data obtained pursuant to this section to any person authorized under section 6103(n), except when such person requires such information for the sole purpose of providing expert evaluation and assistance to the Internal Revenue Service. No person other than an officer or employee of the Internal Revenue Service or the Office of Chief Counsel may, on behalf of the Secretary, question a witness under oath whose testimony was obtained pursuant to this section.".

(b) EFFECTIVE DATE.—The amendment made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall not fail to apply to a contract in effect under section 6103(n) of the Internal Revenue Code of 1986 merely because such contract was in effect before the date of the enactment of this Act.

Subtitle D—Organizational Modernization

SEC. 1301. OFFICE OF THE NATIONAL TAXPAYER ADVOCATE.

(a) TAXPAYER ADVOCATE DIRECTIVES.—

(1) IN GENERAL.—Section 7803(c) is amended by adding at the end the following new paragraph:

"(5) TAXPAYER ADVOCATE DIRECTIVES.—In the case of any Taxpayer Advocate Directive issued by the National Taxpayer Advocate pursuant to a delegation of authority from the Commissioner of Internal Revenue—

"(A) the Commissioner or a Deputy Commissioner shall modify, rescind, or ensure compliance with such directive not later than 90 days after the issuance of such directive, and

"(B) in the case of any directive which is modified or rescinded by a Deputy Commissioner, the National Taxpayer Advocate may (not later than 90 days after such modification or rescission) appeal to the Commissioner, and the Commissioner shall (not later than 90 days after such appeal is made) ensure compliance with such directive as issued by the National Taxpayer Advocate or provide the National Taxpayer Advocate with the reasons for any modification or rescission made or upheld by the Commissioner pursuant to such appeal.".

(2) REPORT TO CERTAIN COMMITTEES OF CONGRESS REGARDING DIRECTIVES.—Section 7803(c)(2)(B)(ii) is amended by redesignating subclauses (VIII) through (XI) as subclauses (IX) through (XII), respectively, and by inserting after subclause (VII) the following new subclause:

"(VIII) identify any Taxpayer Advocate Directive which was not honored by the Internal Revenue Service in a timely manner, as specified under paragraph (5);".

(b) NATIONAL TAXPAYER ADVOCATE ANNUAL REPORTS TO CONGRESS.—

(1) INCLUSION OF MOST SERIOUS TAXPAYER PROBLEMS.—Section 7803(c)(2)(B)(ii)(III) is amended by striking "at least 20 of the" and inserting "the 10".

(2) COORDINATION WITH TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 7803(c)(2) is amended by adding at the end the following new subparagraph:

"(E) COORDINATION WITH TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Before beginning any research or study, the National Taxpayer Advocate shall coordinate with the Treasury Inspector General for Tax Administration to ensure that the National Taxpayer Advocate does not duplicate any action that the Treasury Inspector General for Tax Administration has already undertaken or has a plan to undertake.".

(3) STATISTICAL SUPPORT.—

(A) IN GENERAL.—Section 6108 is amended by adding at the end the following new subsection:

"(d) STATISTICAL SUPPORT FOR NATIONAL TAXPAYER ADVOCATE.—Upon request of the National Taxpayer Advocate, the Secretary shall, to the extent practicable, provide the National Taxpayer Advocate with statistical support in connection with the preparation by the National Taxpayer Advocate of the annual report described in section 7803(c)(2)(B)(ii). Such statistical support shall include statistical studies, compilations, and the review of information provided by the National Taxpayer Advocate for statistical validity and sound statistical methodology.".

(B) DISCLOSURE OF REVIEW.—Section 7803(c)(2)(B)(ii), as amended by subsection (a), is amended by striking "and" at the end of subclause (XI), by redesignating subclause (XII) as subclause (XIII), and by inserting after subclause (XI) the following new subclause:

"(XII) with respect to any statistical information included in such report, include a statement of whether such statistical information was reviewed or provided by the Secretary under section 6108(d) and, if so, whether the Secretary determined such information to be statistically valid and based on sound statistical methodology; and".

(C) CONFORMING AMENDMENT.—Section 7803(c)(2)(B)(iii) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to statistical information provided to the Secretary for review, or received from the Secretary, under section 6108(d).".

(c) SALARY OF NATIONAL TAXPAYER ADVOCATE.—Section 7803(c)(1)(B)(i) is amended by striking ", or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SALARY OF NATIONAL TAXPAYER ADVOCATE.—The amendment made by subsection (c) shall apply to compensation paid to individuals appointed as the National Taxpayer Advocate after March 31, 2019.

SEC. 1302. MODERNIZATION OF INTERNAL REVENUE SERVICE ORGANIZATIONAL STRUCTURE.

(a) IN GENERAL.—Not later than September 30, 2020, the Secretary of the Treasury (or the Secretary's delegate) shall submit to Congress a comprehensive written plan to redesign the organization of the Internal Revenue Service. Such plan shall—

(1) ensure the successful implementation of the priorities specified by Congress in this Act;

(2) prioritize taxpayer services to ensure that all taxpayers easily and readily receive the assistance that they need;

(3) streamline the structure of the agency including minimizing the duplication of services and responsibilities within the agency;

(4) best position the Internal Revenue Service to combat cybersecurity and other threats to the Internal Revenue Service; and

(5) address whether the Criminal Investigation Division of the Internal Revenue Service should report directly to the Commissioner of Internal Revenue.

(b) REPEAL OF RESTRICTION ON ORGANIZATIONAL STRUCTURE OF INTERNAL REVENUE SERVICE.—Paragraph (3) of section 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 shall cease to apply beginning 1 year after the date on which the plan described in subsection (a) is submitted to Congress.

Subtitle E—Other Provisions

SEC. 1401. RETURN PREPARATION PROGRAMS FOR APPLICABLE TAXPAYERS.

(a) IN GENERAL.—Chapter 77 is amended by inserting after section 7526 the following new section:

"SEC. 7526A. RETURN PREPARATION PROGRAMS FOR APPLICABLE TAXPAYERS.

"(a) ESTABLISHMENT OF VOLUNTEER INCOME TAX ASSISTANCE MATCHING GRANT PROGRAM.—The Secretary shall establish a Community Volunteer Income Tax Assistance Matching Grant Program under which the Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation programs assisting applicable taxpayers and members of underserved populations.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Qualified return preparation programs may use grants received under this section for—

"(A) ordinary and necessary costs associated with program operation in accordance with cost principles under the applicable Office of Management and Budget circular, including—

"(i) wages or salaries of persons coordinating the activities of the program,

"(ii) developing training materials, conducting training, and performing quality reviews of the returns prepared under the program,

"(iii) equipment purchases, and

"(iv) vehicle-related expenses associated with remote or rural tax preparation services,

"(B) outreach and educational activities described in subsection (c)(2)(B), and

"(C) services related to financial education and capability, asset development, and the establishment of savings accounts in connection with tax return preparation.

"(2) REQUIREMENT OF MATCHING FUNDS.—A qualified return preparation program must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include—

"(A) the salary (including fringe benefits) of individuals performing services for the program,

"(B) the cost of equipment used in the program, and

"(C) other ordinary and necessary costs associated with the program.

Indirect expenses, including general overhead of any entity administering the program, shall not be counted as matching funds.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each applicant for a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications which demonstrate—

"(A) assistance to applicable taxpayers, with emphasis on outreach to, and services for, such taxpayers,

"(B) taxpayer outreach and educational activities relating to eligibility and availability of income supports available through this title, including the earned income tax credit, and

"(C) specific outreach and focus on one or more underserved populations.

"(3) AMOUNTS TAKEN INTO ACCOUNT.—In determining matching grants under this section, the Secretary shall only take into account amounts provided by the qualified return preparation program for expenses described in subsection (b).

"(d) PROGRAM ADHERENCE.—

"(1) IN GENERAL.—The Secretary shall establish procedures for, and shall conduct not less frequently than once every 5 calendar years during which a qualified return preparation program is operating under a grant under this section, periodic site visits—

"(A) to ensure the program is carrying out the purposes of this section, and

"(B) to determine whether the program meets such program adherence standards as the Secretary shall by regulation or other guidance prescribe.

"(2) ADDITIONAL REQUIREMENTS FOR GRANT RECIPIENTS NOT MEETING PROGRAM ADHERENCE STANDARDS.—In the case of any qualified return preparation program which—

"(A) is awarded a grant under this section, and

"(B) is subsequently determined—

"(i) not to meet the program adherence standards described in paragraph (1)(B), or

"(ii) not to be otherwise carrying out the purposes of this section,

such program shall not be eligible for any additional grants under this section unless such program provides sufficient documentation of corrective measures established to address any such deficiencies determined.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED RETURN PREPARATION PROGRAM.—The term 'qualified return preparation program' means any program—

"(A) which provides assistance to individuals, not less than 90 percent of whom are applicable taxpayers, in preparing and filing Federal income tax returns,

"(B) which is administered by a qualified entity,

"(C) in which all volunteers who assist in the preparation of Federal income tax returns meet the training requirements prescribed by the Secretary, and

"(D) which uses a quality review process which reviews 100 percent of all returns.

"(2) QUALIFIED ENTITY.—

"(A) IN GENERAL.—The term 'qualified entity' means any entity which—

"(i) is an eligible organization,

"(ii) is in compliance with Federal tax filing and payment requirements,

"(iii) is not debarred or suspended from Federal contracts, grants, or cooperative agreements, and

"(iv) agrees to provide documentation to substantiate any matching funds provided pursuant to the grant program under this section.

"(B) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means—

"(i) an institution of higher education which is described in section 102 (other than subsection (a)(1)(C) thereof) of the Higher Education Act of 1965 (20 U.S.C. 1002), as in effect on the date of the enactment of this section, and which has not been disqualified from participating in a program under title IV of such Act,

"(ii) an organization described in section 501(c) and exempt from tax under section 501(a),

"(iii) a local government agency, including—

"(I) a county or municipal government agency, and

"(II) an Indian tribe, as defined in section 4(13) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(13)), including any tribally designated housing entity (as defined in section 4(22) of such Act (25 U.S.C. 4103(22))), tribal subsidiary, subdivision, or other wholly owned tribal entity,

"(iv) a local, State, regional, or national coalition (with one lead organization which meets the eligibility requirements of clause (i), (ii), or (iii) acting as the applicant organization), or

"(v) in the case of applicable taxpayers and members of underserved populations with respect to which no organizations described in the preceding clauses are available—

"(I) a State government agency, or

"(II) an office providing Cooperative Extension services (as established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914).

"(3) APPLICABLE TAXPAYERS.—The term 'applicable taxpayer' means a taxpayer whose income for the taxable year does not exceed an amount equal to the completed phaseout amount under section 32(b) for a married couple filing a joint return with three or more qualifying children, as determined in a revenue procedure or other published guidance.

"(4) UNDERSERVED POPULATION.—The term 'underserved population' includes populations of persons with disabilities, persons with limited English proficiency, Native Americans, individuals living in rural areas, members of the Armed Forces and their spouses, and the elderly.

"(f) SPECIAL RULES AND LIMITATIONS.—

"(1) DURATION OF GRANTS.—Upon application of a qualified return preparation program, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

"(2) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $30,000,000 per fiscal year (exclusive of costs of administering the program) to grants under this section.

"(g) PROMOTION OF PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall promote tax preparation through qualified return preparation programs through the use of mass communications and other means.

"(2) PROVISION OF INFORMATION REGARDING QUALIFIED RETURN PREPARATION PROGRAMS.—The Secretary may provide taxpayers information regarding qualified return preparation programs receiving grants under this section.

"(3) REFERRALS TO LOW-INCOME TAXPAYER CLINICS.—Qualified return preparation programs receiving a grant under this section are encouraged, in appropriate cases, to—

"(A) advise taxpayers of the availability of, and eligibility requirements for receiving, advice and assistance from qualified low-income taxpayer clinics receiving funding under section 7526, and

"(B) provide information regarding the location of, and contact information for, such clinics.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A. Return preparation programs for applicable taxpayers.".

SEC. 1402. PROVISION OF INFORMATION REGARDING LOW-INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Section 7526(c) is amended by adding at the end the following new paragraph:

"(6) PROVISION OF INFORMATION REGARDING QUALIFIED LOW-INCOME TAXPAYER CLINICS.—Notwithstanding any other provision of law, officers and employees of the Department of the Treasury may—

"(A) advise taxpayers of the availability of, and eligibility requirements for receiving, advice and assistance from one or more specific qualified low-income taxpayer clinics receiving funding under this section, and

"(B) provide information regarding the location of, and contact information for, such clinics.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1403. NOTICE FROM IRS REGARDING CLOSURE OF TAXPAYER ASSISTANCE CENTERS.

Not later than 90 days before the date that a proposed closure of a Taxpayer Assistance Center would take effect, the Secretary of the Treasury (or the Secretary's delegate) shall—

(1) make publicly available (including by non-electronic means) a notice which—

(A) identifies the Taxpayer Assistance Center proposed for closure and the date of such proposed closure; and

(B) identifies the relevant alternative sources of taxpayer assistance which may be utilized by taxpayers affected by such proposed closure; and

(2) submit to Congress a written report that includes—

(A) the information included in the notice described in paragraph (1);

(B) the reasons for such proposed closure; and

(C) such other information as the Secretary may determine appropriate.

SEC. 1404. RULES FOR SEIZURE AND SALE OF PERISHABLE GOODS RESTRICTED TO ONLY PERISHABLE GOODS.

(a) IN GENERAL.—Section 6336 is amended by striking "or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property seized after the date of the enactment of this Act.

SEC. 1405. WHISTLEBLOWER REFORMS.

(a) MODIFICATIONS TO DISCLOSURE RULES FOR WHISTLEBLOWERS.—

(1) IN GENERAL.—Section 6103(k) is amended by adding at the end the following new paragraph:

"(13) DISCLOSURE TO WHISTLEBLOWERS.—

"(A) IN GENERAL.—The Secretary may disclose, to any individual providing information relating to any purpose described in paragraph (1) or (2) of section 7623(a), return information related to the investigation of any taxpayer with respect to whom the individual has provided such information, but only to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax liability for tax, or the amount to be collected with respect to the enforcement of any other provision of this title.

"(B) UPDATES ON WHISTLEBLOWER INVESTIGATIONS.—The Secretary shall disclose to an individual providing information relating to any purpose described in paragraph (1) or (2) of section 7623(a) the following:

"(i) Not later than 60 days after a case for which the individual has provided information has been referred for an audit or examination, a notice with respect to such referral.

"(ii) Not later than 60 days after a taxpayer with respect to whom the individual has provided information has made a payment of tax with respect to tax liability to which such information relates, a notice with respect to such payment.

"(iii) Subject to such requirements and conditions as are prescribed by the Secretary, upon a written request by such individual—

"(I) information on the status and stage of any investigation or action related to such information, and

"(II) in the case of a determination of the amount of any award under section 7623(b), the reasons for such determination.

Clause (iii) shall not apply to any information if the Secretary determines that disclosure of such information would seriously impair Federal tax administration. Information described in clauses (i), (ii), and (iii) may be disclosed to a designee of the individual providing such information in accordance with guidance provided by the Secretary.".

(2) CONFORMING AMENDMENTS.—

(A) CONFIDENTIALITY OF INFORMATION.—Section 6103(a)(3) is amended by striking "subsection (k)(10)" and inserting "paragraph (10) or (13) of subsection (k)".

(B) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Section 7213(a)(2) is amended by striking "(k)(10)" and inserting "(k)(10) or (13)".

(C) COORDINATION WITH AUTHORITY TO DISCLOSE FOR INVESTIGATIVE PURPOSES.—Section 6103(k)(6) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any disclosure to an individual providing information relating to any purpose described in paragraph (1) or (2) of section 7623(a) which is made under paragraph (13)(A).".

(b) PROTECTION AGAINST RETALIATION.—Section 7623 is amended by adding at the end the following new subsection:

"(d) CIVIL ACTION TO PROTECT AGAINST RETALIATION CASES.—

"(1) ANTI-RETALIATION WHISTLEBLOWER PROTECTION FOR EMPLOYEES.—No employer, or any officer, employee, contractor, subcontractor, or agent of such employer, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment (including through an act in the ordinary course of such employee's duties) in reprisal for any lawful act done by the employee—

"(A) to provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud, when the information or assistance is provided to the Internal Revenue Service, the Secretary of Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory au-

thority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct, or

"(B) to testify, participate in, or otherwise assist in any administrative or judicial action taken by the Internal Revenue Service relating to an alleged underpayment of tax or any violation of the internal revenue laws or any provision of Federal law relating to tax fraud.

"(2) ENFORCEMENT ACTION.—

"(A) IN GENERAL.—A person who alleges discharge or other reprisal by any person in violation of paragraph (1) may seek relief under paragraph (3) by—

"(i) filing a complaint with the Secretary of Labor, or

"(ii) if the Secretary of Labor has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

"(B) PROCEDURE.—

"(i) IN GENERAL.—An action under subparagraph (A)(i) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

"(ii) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

"(iii) BURDENS OF PROOF.—An action brought under subparagraph (A)(ii) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code, except that in applying such section—

"(I) 'behavior described in paragraph (1)' shall be substituted for 'behavior described in paragraphs (1) through (4) of subsection (a)' each place it appears in paragraph (2)(B) thereof, and

"(II) 'a violation of paragraph (1)' shall be substituted for 'a violation of subsection (a)' each place it appears.

"(iv) STATUTE OF LIMITATIONS.—A complaint under subparagraph (A)(i) shall be filed not later than 180 days after the date on which the violation occurs.

"(v) JURY TRIAL.—A party to an action brought under subparagraph (A)(ii) shall be entitled to trial by jury.

"(3) REMEDIES.—

"(A) IN GENERAL.—An employee prevailing in any action under paragraph (2)(A) shall be entitled to all relief necessary to make the employee whole.

"(B) COMPENSATORY DAMAGES.—Relief for any action under subparagraph (A) shall include—

"(i) reinstatement with the same seniority status that the employee would have had, but for the reprisal,

"(ii) the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest, and

"(iii) compensation for any special damages sustained as a result of the reprisal, including litigation costs, expert witness fees, and reasonable attorney fees.

"(4) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

"(5) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

"(A) WAIVER OF RIGHTS AND REMEDIES.—The rights and remedies provided for in this subsection may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

"(B) PREDISPUTE ARBITRATION AGREEMENTS.—No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this subsection.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures made after the date of the enactment of this Act.

(2) CIVIL PROTECTION.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 1406. CUSTOMER SERVICE INFORMATION.

The Secretary of the Treasury (or the Secretary's delegate) shall provide helpful information to taxpayers placed on hold during a telephone call to any Internal Revenue Service help line, including the following:

(1) Information about common tax scams.

(2) Information on where and how to report tax scams.

(3) Additional advice on how taxpayers can protect themselves from identity theft and tax scams.

SEC. 1407. MISDIRECTED TAX REFUND DEPOSITS.

Section 6402 is amended by adding at the end the following new subsection:

"(n) MISDIRECTED DIRECT DEPOSIT REFUND.—Not later than the date which is 6 months after the date of the enactment of the Taxpayer First Act of 2019, the Secretary shall prescribe regulations to establish procedures to allow for—

"(1) taxpayers to report instances in which a refund made by the Secretary by electronic funds transfer was not transferred to the account of the taxpayer;

"(2) coordination with financial institutions for the purpose of—

"(A) identifying the accounts to which transfers described in paragraph (1) were made; and

"(B) recovery of the amounts so transferred; and

"(3) the refund to be delivered to the correct account of the taxpayer.".

TITLE II—21ST CENTURY IRS

Subtitle A—Cybersecurity and Identity Protection

SEC. 2001. PUBLIC-PRIVATE PARTNERSHIP TO ADDRESS IDENTITY THEFT REFUND FRAUD.

The Secretary of the Treasury (or the Secretary's delegate) shall work collaboratively with the public and private sectors to protect taxpayers from identity theft refund fraud.

SEC. 2002. RECOMMENDATIONS OF ELECTRONIC TAX ADMINISTRATION ADVISORY COMMITTEE REGARDING IDENTITY THEFT REFUND FRAUD.

The Secretary of the Treasury shall ensure that the advisory group convened by the Secretary pursuant to section 2001(b)(2) of the Internal Revenue Service Restructuring and Reform Act of 1998 (commonly known as the Electronic Tax Administration Advisory Committee) studies (including by providing organized public forums) and makes recommendations to the Secretary regarding methods to prevent identity theft and refund fraud.

SEC. 2003. INFORMATION SHARING AND ANALYSIS CENTER.

(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary's delegate) may participate in an information sharing and analysis center to centralize, standardize, and enhance data compilation and analysis to facilitate sharing actionable data and information with respect to identity theft tax refund fraud.

(b) DEVELOPMENT OF PERFORMANCE METRICS.—The Secretary of the Treasury (or the Secretary's delegate) shall develop metrics for measuring the success of such center in detecting and preventing identity theft tax refund fraud.

(c) DISCLOSURE.—

(1) IN GENERAL.—Section 6103(k), as amended by this Act, is amended by adding at the end the following new paragraph:

"(14) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CYBERSECURITY AND THE PREVENTION OF IDENTITY THEFT TAX REFUND FRAUD.—

"(A) IN GENERAL.—Under such procedures and subject to such conditions as the Secretary may prescribe, the Secretary may disclose specified return information to specified ISAC participants to the extent that the Secretary determines such disclosure is in furtherance of effective Federal tax administration relating to the detection or prevention of identity theft tax refund fraud, validation of taxpayer identity, authentication of taxpayer returns, or detection or prevention of cybersecurity threats.

"(B) SPECIFIED ISAC PARTICIPANTS.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'specified ISAC participant' means—

"(I) any person designated by the Secretary as having primary responsibility for a function performed with respect to the information sharing and analysis center described in section 2003(a) of the Taxpayer First Act of 2019, and

"(II) any person subject to the requirements of section 7216 and which is a participant in such information sharing and analysis center.

"(ii) INFORMATION SHARING AGREEMENT.—Such term shall not include any person unless such person has entered into a written agreement with the Secretary setting forth the terms and conditions for the disclosure of information to such person under this paragraph, including requirements regarding the protection and safeguarding of such information by such person.

"(C) SPECIFIED RETURN INFORMATION.—For purposes of this paragraph, the term 'specified return information' means—

"(i) in the case of a return which is in connection with a case of potential identity theft refund fraud—

"(I) in the case of such return filed electronically, the internet protocol address, device identification, email domain name, speed of completion, method of authentication, refund method, and such other return information related to the electronic filing characteristics of such return as the Secretary may identify for purposes of this subclause, and

"(II) in the case of such return prepared by a tax return preparer, identifying information with respect to such tax return preparer, including the preparer taxpayer identification number and electronic filer identification number of such preparer,

"(ii) in the case of a return which is in connection with a case of a identity theft refund fraud which has been confirmed by the Secretary (pursuant to such procedures as the Secretary may provide), the information referred to in subclauses (I) and (II) of clause (i), the name and taxpayer identification number of the taxpayer as it appears on the return, and any bank account and routing information provided for making a refund in connection with such return, and

"(iii) in the case of any cybersecurity threat to the Internal Revenue Service, information similar to the information described in subclauses (I) and (II) of clause (i) with respect to such threat.

"(D) RESTRICTION ON USE OF DISCLOSED INFORMATION.—

"(i) DESIGNATED THIRD PARTIES.—Any return information received by a person described in subparagraph (B)(i)(I) shall be used only for the purposes of and to the extent necessary in—

"(I) performing the function such person is designated to perform under such subparagraph,

"(II) facilitating disclosures authorized under subparagraph (A) to persons described in subparagraph (B)(i)(II), and

"(III) facilitating disclosures authorized under subsection (d) to participants in such information sharing and analysis center.

"(ii) RETURN PREPARERS.—Any return information received by a person described in subparagraph (B)(i)(II) shall be treated for purposes of section 7216 as information furnished to such person for, or in connection with, the preparation of a return of the tax imposed under chapter 1.

"(E) DATA PROTECTION AND SAFEGUARDS.—Return information disclosed under this paragraph shall be subject to such protections and safeguards as the Secretary may require in regulations or other guidance or in the written agreement referred to in subparagraph (B)(ii). Such written agreement shall include a requirement that any unauthorized access to information disclosed under this paragraph, and any breach of any system in which such information is held, be reported to the Treasury Inspector General for Tax Administration.".

(2) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—

(A) Section 6103(a)(3), as amended by this Act, is amended by striking "or (13)" and inserting ", (13), or (14)".

(B) Section 7213(a)(2), as amended by this Act, is amended by striking "or (13)" and inserting ", (13), or (14)".

SEC. 2004. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

"(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an on-site review every 3 years (or a mid-point review in the case of contracts or agreements of less than 3 years in duration) of each contractor or other agent to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor or other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.".

(b) CONFORMING AMENDMENT.—Section 6103(p)(8)(B) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after December 31, 2022.

SEC. 2005. REPORT ON ELECTRONIC PAYMENTS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary's delegate), in coordination with the Bureau of Fiscal Service and the Internal Revenue Service, and in consultation with private sector financial institutions, shall submit a written report to Congress describing how the government can utilize new payment platforms to increase the number of tax refunds paid by electronic funds transfer. Such report shall weigh the interests of reducing identity theft tax refund fraud, reducing the Federal Government's costs in delivering tax refunds, the costs and any associated fees charged to taxpayers (including monthly and point-of-service fees) to access their tax refunds, the impact on individuals who do not have access to financial accounts or institutions, and ensuring payments are made to accounts at a financial institution that complies with section 21 of the Federal Deposit Insurance Act, chapter 2 of title I of Public Law 91–508, and subchapter II of chapter 53 of title 31, United States Code (commonly referred to collectively as the "Bank Secrecy Act") and the USA PATRIOT Act. Such report shall include any legislative recommendations necessary to accomplish these goals.

SEC. 2006. IDENTITY PROTECTION PERSONAL IDENTIFICATION NUMBERS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Treasury or the Secretary's delegate (hereafter referred to in this section as the "Secretary") shall establish a program to issue, upon the request of any individual, a number which may be used in connection with such individual's social security number (or other identifying information with respect to such individual as determined by the Secretary) to assist the Secretary in verifying such individual's identity.

(b) REQUIREMENTS.—

(1) ANNUAL EXPANSION.—For each calendar year beginning after the date of the enactment of this Act, the Secretary shall provide numbers through the program described in subsection (a) to individuals residing in such States as the Secretary deems appropriate, provided that the total number of States served by such program during such year is greater than the total number of States served by such program during the preceding year.

(2) NATIONWIDE AVAILABILITY.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall ensure that the program described in subsection (a) is made available to any individual residing in the United States.

SEC. 2007. SINGLE POINT OF CONTACT FOR TAX-RELATED IDENTITY THEFT VICTIMS.

(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary's delegate) shall establish and implement procedures to ensure that any taxpayer whose return has been delayed or otherwise adversely affected due to tax-related identity theft has a single point of contact at the Internal Revenue Service throughout the processing of the taxpayer's case. The single point of contact shall track the taxpayer's case to completion and coordinate with other Internal Revenue Service employees to resolve case issues as quickly as possible.

(b) SINGLE POINT OF CONTACT.—

(1) IN GENERAL.—For purposes of subsection (a), the single point of contact shall consist of a team or subset of specially trained employees who—

(A) have the ability to work across functions to resolve the issues involved in the taxpayer's case; and

(B) shall be accountable for handling the case until its resolution.

(2) TEAM OR SUBSET.—The employees included within the team or subset described in paragraph (1) may change as required to meet the needs of the Internal Revenue Service, provided that procedures have been established to—

(A) ensure continuity of records and case history; and

(B) notify the taxpayer when appropriate.

SEC. 2008. NOTIFICATION OF SUSPECTED IDENTITY THEFT.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

"SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY THEFT.

"(a) IN GENERAL.—If the Secretary determines that there has been or may have been an unauthorized use of the identity of any individual, the Secretary shall, without jeopardizing an investigation relating to tax administration—

"(1) as soon as practicable—

"(A) notify the individual of such determination,

"(B) provide instructions on how to file a report with law enforcement regarding the unauthorized use,

"(C) identify any steps to be taken by the individual to permit law enforcement to access personal information of the individual during the investigation,

"(D) provide information regarding actions the individual may take in order to protect the individual from harm relating to the unauthorized use, and

"(E) offer identity protection measures to the individual, such as the use of an identity protection personal identification number, and

"(2) at the time the information described in paragraph (1) is provided (or, if not available at such time, as soon as practicable thereafter), issue additional notifications to such individual (or such individual's designee) regarding—

"(A) whether an investigation has been initiated in regards to such unauthorized use,

"(B) whether the investigation substantiated an unauthorized use of the identity of the individual, and

"(C) whether—

"(i) any action has been taken against a person relating to such unauthorized use, or

"(ii) any referral has been made for criminal prosecution of such person and, to the extent such information is available, whether such person has been criminally charged by indictment or information.

"(b) EMPLOYMENT-RELATED IDENTITY THEFT.—

"(1) IN GENERAL.—For purposes of this section, the unauthorized use of the identity of an individual includes the unauthorized use of the identity of the individual to obtain employment.

"(2) DETERMINATION OF EMPLOYMENT-RELATED IDENTITY THEFT.—For purposes of this section, in making a determination as to whether there has been or may have been an unauthorized use of the identity of an individual to obtain employment, the Secretary shall review any information—

"(A) obtained from a statement described in section 6051 or an information return relating to compensation for services rendered other than as an employee, or

"(B) provided to the Internal Revenue Service by the Social Security Administration regarding any statement described in section 6051,

which indicates that the social security account number provided on such statement or information return does not correspond with the name provided on such statement or information return or the name on the tax return reporting the income which is included on such statement or information return.".

(b) ADDITIONAL MEASURES.—

(1) EXAMINATION OF BOTH PAPER AND ELECTRONIC STATEMENTS AND RETURNS.—The Secretary of the Treasury (or the Secretary's delegate) shall examine the statements, information returns, and tax returns described in section 7529(b)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) for any evidence of employment-related identity theft, regardless of whether such statements or returns are submitted electronically or on paper.

(2) IMPROVEMENT OF EFFECTIVE RETURN PROCESSING PROGRAM WITH SOCIAL SECURITY ADMINISTRATION.—Section 232 of the Social Security Act (42 U.S.C.

432) is amended by inserting after the third sentence the following: "For purposes of carrying out the return processing program described in the preceding sentence, the Commissioner of Social Security shall request, not less than annually, such information described in section 7529(b)(2) of the Internal Revenue Code of 1986 as may be necessary to ensure the accuracy of the records maintained by the Commissioner of Social Security related to the amounts of wages paid to, and the amounts of self-employment income derived by, individuals.".

(3) UNDERREPORTING OF INCOME.—The Secretary of the Treasury (or the Secretary's delegate) shall establish procedures to ensure that income reported in connection with the unauthorized use of a taxpayer's identity is not taken into account in determining any penalty for underreporting of income by the victim of identity theft.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529. Notification of suspected identity theft.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations made after the date that is 6 months after the date of the enactment of this Act.

SEC. 2009. GUIDELINES FOR STOLEN IDENTITY REFUND FRAUD CASES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary's delegate), in consultation with the National Taxpayer Advocate, shall develop and implement publicly available guidelines for management of cases involving stolen identity refund fraud in a manner that reduces the administrative burden on taxpayers who are victims of such fraud.

(b) STANDARDS AND PROCEDURES TO BE CONSIDERED.—The guidelines described in subsection (a) may include—

(1) standards for—

(A) the average length of time in which a case involving stolen identity refund fraud should be resolved;

(B) the maximum length of time, on average, a taxpayer who is a victim of stolen identity refund fraud and is entitled to a tax refund which has been stolen should have to wait to receive such refund; and

(C) the maximum number of offices and employees within the Internal Revenue Service with whom a taxpayer who is a victim of stolen identity refund fraud should be required to interact in order to resolve a case;

(2) standards for opening, assigning, reassigning, or closing a case involving stolen identity refund fraud; and

(3) procedures for implementing and accomplishing the standards described in paragraphs (1) and (2), and measures for evaluating such procedures and determining whether such standards have been successfully implemented.

SEC. 2010. INCREASED PENALTY FOR IMPROPER DISCLOSURE OR USE OF INFORMATION BY PREPARERS OF RETURNS.

(a) IN GENERAL.—Section 6713 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) ENHANCED PENALTY FOR IMPROPER USE OR DISCLOSURE RELATING TO IDENTITY THEFT.—

"(1) IN GENERAL.—In the case of a disclosure or use described in subsection (a) that is made in connection with a crime relating to the misappropriation of another person's taxpayer identity (as defined in section 6103(b)(6)), whether or not such crime involves any tax filing, subsection (a) shall be applied—

"(A) by substituting '$1,000' for '$250', and

"(B) by substituting '$50,000' for '$10,000'.

"(2) SEPARATE APPLICATION OF TOTAL PENALTY LIMITATION.—The limitation on the total amount of the penalty under subsection (a) shall be applied separately with respect to disclosures or uses to which this subsection applies and to which it does not apply.".

(b) CRIMINAL PENALTY.—Section 7216(a) is amended by striking "$1,000" and inserting "$1,000 ($100,000 in the case of a disclosure or use to which section 6713(b) applies)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures or uses on or after the date of the enactment of this Act.

Subtitle B—Development of Information Technology

SEC. 2101. MANAGEMENT OF INTERNAL REVENUE SERVICE INFORMATION TECHNOLOGY.

(a) DUTIES AND RESPONSIBILITIES OF INTERNAL REVENUE SERVICE CHIEF INFORMATION OFFICER.—Section 7803, as amended by section 1001, is amended by adding at the end the following new subsection:

"(f) INTERNAL REVENUE SERVICE CHIEF INFORMATION OFFICER.—

"(1) IN GENERAL.—There shall be in the Internal Revenue Service an Internal Revenue Service Chief Information Officer (hereafter referred to in this subsection as the 'IRS CIO') who shall be appointed by the Commissioner of Internal Revenue.

"(2) CENTRALIZED RESPONSIBILITY FOR INTERNAL REVENUE SERVICE INFORMATION TECHNOLOGY.—The Commissioner of Internal Revenue (and the Secretary) shall act through the IRS CIO with respect to all development, implementation, and maintenance of information technology for the Internal Revenue Service. Any reference in this subsection to the IRS CIO which directs the IRS CIO to take any action, or to assume any responsibility, shall be treated as a reference to the Commissioner of Internal Revenue acting through the IRS CIO.

"(3) GENERAL DUTIES AND RESPONSIBILITIES.—The IRS CIO shall—

"(A) be responsible for the development, implementation, and maintenance of information technology for the Internal Revenue Service,

"(B) ensure that the information technology of the Internal Revenue Service is secure and integrated,

"(C) maintain operational control of all information technology for the Internal Revenue Service,

"(D) be the principal advocate for the information technology needs of the Internal Revenue Service, and

"(E) consult with the Chief Procurement Officer of the Internal Revenue Service to ensure that the information technology acquired for the Internal Revenue Service is consistent with—

"(i) the goals and requirements specified in subparagraphs (A) through (D), and

"(ii) the strategic plan developed under paragraph (4).

"(4) STRATEGIC PLAN.—

"(A) IN GENERAL.—The IRS CIO shall develop and implement a multiyear strategic plan for the information technology needs of the Internal Revenue Service. Such plan shall—

"(i) include performance measurements of such technology and of the implementation of such plan,

"(ii) include a plan for an integrated enterprise architecture of the information technology of the Internal Revenue Service,

"(iii) include and take into account the resources needed to accomplish such plan,

"(iv) take into account planned major acquisitions of information technology by the Internal Revenue Service, and

"(v) align with the needs and strategic plan of the Internal Revenue Service.

"(B) PLAN UPDATES.—The IRS CIO shall, not less frequently than annually, review and update the strategic plan under subparagraph (A) (including the plan for an integrated enterprise architecture described in subparagraph (A)(ii)) to take into account the development of new information technology and the needs of the Internal Revenue Service.

"(5) SCOPE OF AUTHORITY.—

"(A) INFORMATION TECHNOLOGY.—For purposes of this subsection, the term 'information technology' has the meaning given such term by section 11101 of title 40, United States Code.

"(B) INTERNAL REVENUE SERVICE.—Any reference in this subsection to the Internal Revenue Service includes a reference to all components of the Internal Revenue Service, including—

"(i) the Office of the Taxpayer Advocate,

"(ii) the Criminal Investigation Division of the Internal Revenue Service, and

"(iii) except as otherwise provided by the Secretary with respect to information technology related to matters described in subsection (b)(3)(B), the Office of the Chief Counsel.".

(b) INDEPENDENT VERIFICATION AND VALIDATION OF THE CUSTOMER ACCOUNT DATA ENGINE 2 AND ENTERPRISE CASE MANAGEMENT SYSTEM.—

(1) IN GENERAL.—The Commissioner of Internal Revenue shall enter into a contract with an independent reviewer to verify and validate the implementation plans (including the performance milestones and cost estimates included in such plans) developed for the Customer Account Data Engine 2 and the Enterprise Case Management System.

(2) DEADLINE FOR COMPLETION.—Such contract shall require that such verification and validation be completed not later than the date which is 1 year after the date of the enactment of this Act.

(3) APPLICATION TO PHASES OF CADE 2.—

(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to phase 1 of the Customer Account Data Engine 2 and shall apply separately to each other phase.

(B) DEADLINE FOR COMPLETING PLANS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Internal Revenue shall complete the development of plans for all phases of the Customer Account Data Engine 2.

(C) DEADLINE FOR COMPLETION OF VERIFICATION AND VALIDATION OF PLANS.—In the case of any phase after phase 2 of the Customer Account Data Engine 2, paragraph (2) shall be applied by substituting "the date on which the plan for such phase was completed" for "the date of the enactment of this Act".

(c) COORDINATION OF IRS CIO AND CHIEF PROCUREMENT OFFICER OF THE INTERNAL REVENUE SERVICE.—

(1) IN GENERAL.—The Chief Procurement Officer of the Internal Revenue Service shall—

(A) identify all significant IRS information technology acquisitions and provide written notification to the Internal Revenue Service Chief Information Officer (hereafter referred to in this subsection as the "IRS CIO") of each such acquisition in advance of such acquisition, and

(B) regularly consult with the IRS CIO regarding acquisitions of information technology for the Internal Revenue Service, including meeting with the IRS CIO regarding such acquisitions upon request.

(2) SIGNIFICANT IRS INFORMATION TECHNOLOGY ACQUISITIONS.—For purposes of this subsection, the term "significant IRS information technology acquisitions" means—

(A) any acquisition of information technology for the Internal Revenue Service in excess of $1,000,000; and

(B) such other acquisitions of information technology for the Internal Revenue Service (or categories of such acquisitions) as the IRS CIO, in consultation with the Chief Procurement Officer of the Internal Revenue Service, may identify.

(3) SCOPE.—Terms used in this subsection which are also used in section 7803(f) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall have the same meaning as when used in such section.

SEC. 2102. INTERNET PLATFORM FOR FORM 1099 FILINGS.

(a) IN GENERAL.—Not later than January 1, 2023, the Secretary of the Treasury or the Secretary's delegate (hereafter referred to in this section as the "Secretary") shall make available an Internet website or other electronic media, with a user interface and functionality similar to the Business Services Online Suite of Services provided by the Social Security Administration, that provides access to resources and guidance provided by the Internal Revenue Service and allows persons to—

(1) prepare and file Forms 1099;

(2) prepare Forms 1099 for distribution to recipients other than the Internal Revenue Service; and

(3) maintain a record of completed, filed, and distributed Forms 1099.

(b) ELECTRONIC SERVICES TREATED AS SUPPLEMENTAL; APPLICATION OF SECURITY STANDARDS.—The Secretary shall ensure that the services described in subsection (a)—

(1) are a supplement to, and not a replacement for, other services provided by the Internal Revenue Service to taxpayers; and

(2) comply with applicable security standards and guidelines.

SEC. 2103. STREAMLINED CRITICAL PAY AUTHORITY FOR INFORMATION TECHNOLOGY POSITIONS.

(a) IN GENERAL.—Subchapter A of chapter 80 is amended by adding at the end the following new section:

"SEC. 7812. STREAMLINED CRITICAL PAY AUTHORITY FOR INFORMATION TECHNOLOGY POSITIONS.

"In the case of any position which is critical to the functionality of the information technology operations of the Internal Revenue Service—

"(1) section 9503 of title 5, United States Code, shall be applied—

"(A) by substituting 'during the period beginning on the date of the enactment of section 7812 of the Internal Revenue Code of 1986, and ending on September 30, 2025' for 'Before September 30, 2013 in subsection (a)',

"(B) without regard to subparagraph (B) of subsection (a)(1), and

"(C) by substituting 'the date of the enactment of the Taxpayer First Act of 2019' for 'June 1, 1998' in subsection (a)(6),

"(2) section 9504 of such title 5 shall be applied by substituting 'During the period beginning on the date of the enactment of section 7812 of the Internal Revenue Code of 1986, and ending on September 30, 2025' for 'Before September 30, 2013' each place it appears in subsections (a) and (b), and

"(3) section 9505 of such title shall be applied—

"(A) by substituting 'During the period beginning on the date of the enactment of section 7812 of the Internal Revenue Code of 1986, and ending on September 30, 2025' for 'Before September 30, 2013' in subsection (a), and

"(B) by substituting 'the information technology operations' for 'significant functions' in subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 is amended by adding at the end the following new item:

"Sec. 7812. Streamlined critical pay authority for information technology positions.".

Subtitle C—Modernization of Consent-Based Income Verification System

SEC. 2201. DISCLOSURE OF TAXPAYER INFORMATION FOR THIRD-PARTY INCOME VERIFICATION.

(a) IN GENERAL.—Not later than 1 year after the close of the 2-year period described in subsection (d)(1), the Secretary of the Treasury or the Secretary's delegate (hereafter referred to in this section as the "Secretary") shall implement a program to ensure that any qualified disclosure—

(1) is fully automated and accomplished through the Internet; and

(2) is accomplished in as close to real-time as is practicable.

(b) QUALIFIED DISCLOSURE.—For purposes of this section, the term "qualified disclosure" means a disclosure under section 6103(c) of the Internal Revenue Code of 1986 of returns or return information by the Secretary to a person seeking to verify the income or creditworthiness of a taxpayer who is a borrower in the process of a loan application.

(c) APPLICATION OF SECURITY STANDARDS.—The Secretary shall ensure that the program described in subsection (a) complies with applicable security standards and guidelines.

(d) USER FEE.—

(1) IN GENERAL.—During the 2-year period beginning on the first day of the 6th calendar month beginning after the date of the enactment of this Act, the Secretary shall assess and collect a fee for qualified disclosures (in addition to any other fee assessed and collected for such disclosures) at such rates as the Secretary determines are sufficient to cover the costs related to implementing the program described in subsection (a), including the costs of any necessary infrastructure or technology.

(2) DEPOSIT OF COLLECTIONS.—Amounts received from fees assessed and collected under paragraph (1) shall be deposited in, and credited to, an account solely for the purpose of carrying out the activities described in subsection (a). Such amounts shall be available to carry out such activities without need of further appropriation and without fiscal year limitation.

SEC. 2202. LIMIT REDISCLOSURES AND USES OF CONSENT-BASED DISCLOSURES OF TAX RETURN INFORMATION.

(a) IN GENERAL.—Section 6103(c) is amended by adding at the end the following: "Persons designated by the taxpayer under this subsection to receive return information shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.".

(b) APPLICATION OF PENALTIES.—Section 6103(a)(3) is amended by inserting "subsection (c)," after "return information under".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after the date which is 180 days after the date of the enactment of this Act.

Subtitle D—Expanded Use of Electronic Systems

SEC. 2301. ELECTRONIC FILING OF RETURNS.

(a) IN GENERAL.—Section 6011(e)(2)(A) is amended by striking "250" and inserting "the applicable number of".

(b) APPLICABLE NUMBER.—Section 6011(e) is amended by striking paragraph (5) and inserting the following new paragraphs:

"(5) APPLICABLE NUMBER.—

"(A) IN GENERAL.—For purposes of paragraph (2)(A), the applicable number shall be—

"(i) except as provided in subparagraph (B), in the case of calendar years before 2021, 250,

"(ii) in the case of calendar year 2021, 100, and

"(iii) in the case of calendar years after 2021, 10.

"(B) SPECIAL RULE FOR PARTNERSHIPS FOR 2018, 2019, 2020, AND 2021.—In the case of a partnership, for any calendar year before 2022, the applicable number shall be—

"(i) in the case of calendar year 2018, 200,

"(ii) in the case of calendar year 2019, 150,

"(iii) in the case of calendar year 2020, 100, and

"(iv) in the case of calendar year 2021, 50.

"(6) PARTNERSHIPS REQUIRED TO FILE ON MAGNETIC MEDIA.—Notwithstanding paragraph (2)(A), the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.".

(c) RETURNS FILED BY A TAX RETURN PREPARER.—Section 6011(e)(3) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTION FOR CERTAIN PREPARERS LOCATED IN AREAS WITHOUT INTERNET ACCESS.—The Secretary may waive the requirement of subparagraph (A) if the Secretary determines, on the basis of an application by the tax return preparer, that the preparer cannot meet such requirement by reason of being located in a geographic area which does not have access to internet service (other than dial-up or satellite service).".

(d) CONFORMING AMENDMENT.—Section 6724(c) is amended by striking "250 information returns (more than 100 information returns in the case of a partnership having more than 100 partners)" and inserting "the applicable number (determined under section 6011(e)(5) with respect to the calendar year to which such returns relate) of information returns".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2302. UNIFORM STANDARDS FOR THE USE OF ELECTRONIC SIGNATURES FOR DISCLOSURE AUTHORIZATIONS TO, AND OTHER AUTHORIZATIONS OF, PRACTITIONERS.

Section 6061(b)(3) is amended to read as follows:

"(3) PUBLISHED GUIDANCE.—

"(A) IN GENERAL.—The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements or any method adopted under paragraph (1).

"(B) ELECTRONIC SIGNATURES FOR DISCLOSURE AUTHORIZATIONS TO, AND OTHER AUTHORIZATIONS OF, PRACTITIONERS.—Not later than 6 months after the date of the enactment of this subparagraph, the Secretary shall publish guidance to establish uniform standards and procedures for the acceptance of taxpayers' signatures appearing in electronic form with respect to any request for disclosure of a taxpayer's return or return information under section 6103(c) to a practitioner or any power of attorney granted by a taxpayer to a practitioner.

"(C) PRACTITIONER.—For purposes of subparagraph (B), the term 'practitioner' means any individual in good standing who is regulated under section 330 of title 31, United States Code.".

SEC. 2303. PAYMENT OF TAXES BY DEBIT AND CREDIT CARDS.

Section 6311(d)(2) is amended by adding at the end the following: "The preceding sentence shall not apply to the extent that the Secretary ensures that any such fee or other consideration is fully recouped by the Secretary in the form of fees paid to the Secretary by persons paying taxes imposed under subtitle A with credit,

debit, or charge cards pursuant to such contract. Notwithstanding the preceding sentence, the Secretary shall seek to minimize the amount of any fee or other consideration that the Secretary pays under any such contract.".

SEC. 2304. AUTHENTICATION OF USERS OF ELECTRONIC SERVICES ACCOUNTS.

Beginning 180 days after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary's delegate) shall verify the identity of any individual opening an e-Services account with the Internal Revenue Service before such individual is able to use the e-Services tools.

Subtitle E—Other Provisions

SEC. 2401. REPEAL OF PROVISION REGARDING CERTAIN TAX COMPLIANCE PROCEDURES AND REPORTS.

Section 2004 of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 6012 note) is repealed.

SEC. 2402. COMPREHENSIVE TRAINING STRATEGY.

Not later than 1 year after the date of the enactment of this Act, the Commissioner of Internal Revenue shall submit to Congress a written report providing a comprehensive training strategy for employees of the Internal Revenue Service, including—

(1) a plan to streamline current training processes, including an assessment of the utility of further consolidating internal training programs, technology, and funding;

(2) a plan to develop annual training regarding taxpayer rights, including the role of the Office of the Taxpayer Advocate, for employees that interface with taxpayers and the direct managers of such employees;

(3) a plan to improve technology-based training;

(4) proposals to—

(A) focus employee training on early, fair, and efficient resolution of taxpayer disputes for employees that interface with taxpayers and the direct managers of such employees; and

(B) ensure consistency of skill development and employee evaluation throughout the Internal Revenue Service; and

(5) a thorough assessment of the funding necessary to implement such strategy.

TITLE III—MISCELLANEOUS PROVISIONS

Subtitle A—Reform of Laws Governing Internal Revenue Service Employees

SEC. 3001. PROHIBITION ON REHIRING ANY EMPLOYEE OF THE INTERNAL REVENUE SERVICE WHO WAS INVOLUNTARILY SEPARATED FROM SERVICE FOR MISCONDUCT.

(a) IN GENERAL.—Section 7804 is amended by adding at the end the following new subsection:

"(d) PROHIBITION ON REHIRING EMPLOYEES INVOLUNTARILY SEPARATED.—The Commissioner may not hire any individual previously employed by the Commissioner who was removed for misconduct under this subchapter or chapter 43 or chapter 75 of title 5, United States Code, or whose employment was terminated under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the hiring of employees after the date of the enactment of this Act.

SEC. 3002. NOTIFICATION OF UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Subsection (e) of section 7431 is amended by adding at the end the following new sentences: "The Secretary shall also notify such taxpayer if the Internal Revenue Service or a Federal or State agency (upon notice to the Secretary by such Federal or State agency) proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the unauthorized

inspection or disclosure and the rights of the taxpayer under such administrative determination.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations proposed after the date which is 180 days after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Exempt Organizations

SEC. 3101. MANDATORY E-FILING BY EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 6033 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) MANDATORY ELECTRONIC FILING.—Any organization required to file a return under this section shall file such return in electronic form.".

(b) CONFORMING AMENDMENT.—Paragraph (7) of section 527(j) is amended by striking "if the organization has" and all that follows through "such calendar year".

(c) INSPECTION OF ELECTRONICALLY FILED ANNUAL RETURNS.—Subsection (b) of section 6104 is amended by adding at the end the following: "Any annual return required to be filed electronically under section 6033(n) shall be made available by the Secretary to the public as soon as practicable in a machine readable format.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITIONAL RELIEF.—

(A) SMALL ORGANIZATIONS.—

(i) IN GENERAL.—In the case of any small organizations, or any other organizations for which the Secretary of the Treasury or the Secretary's delegate (hereafter referred to in this paragraph as the "Secretary") determines the application of the amendments made by this section would cause undue burden without a delay, the Secretary may delay the application of such amendments, but such delay shall not apply to any taxable year beginning on or after the date 2 years after of the enactment of this Act.

(ii) SMALL ORGANIZATION.—For purposes of clause (i), the term "small organization" means any organization—

(I) the gross receipts of which for the taxable year are less than $200,000; and

(II) the aggregate gross assets of which at the end of the taxable year are less than $500,000.

(B) ORGANIZATIONS FILING FORM 990–T.—In the case of any organization described in section 511(a)(2) of the Internal Revenue Code of 1986 which is subject to the tax imposed by section 511(a)(1) of such Code on its unrelated business taxable income, or any organization required to file a return under section 6033 of such Code and include information under subsection (e) thereof, the Secretary may delay the application of the amendments made by this section, but such delay shall not apply to any taxable year beginning on or after the date 2 years after of the enactment of this Act.

SEC. 3102. NOTICE REQUIRED BEFORE REVOCATION OF TAX-EXEMPT STATUS FOR FAILURE TO FILE RETURN.

(a) IN GENERAL.—Section 6033(j)(1) is amended by striking "If an organization" and inserting the following:

"(A) NOTICE.—If an organization described in subsection (a)(1) or (i) fails to file the annual return or notice required under either subsection for 2 consecutive years, the Secretary shall notify the organization—

"(i) that the Internal Revenue Service has no record of such a return or notice from such organization for 2 consecutive years, and

"(ii) about the revocation that will occur under subparagraph (B) if the organization fails to file such a return or notice by the due date for the next such return or notice required to be filed.

The notification under the preceding sentence shall include information about how to comply with the filing requirements under subsections (a)(1) and (i).

"(B) REVOCATION.—If an organization".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to failures to file returns or notices for 2 consecutive years if the return or notice for the second year is required to be filed after December 31, 2019.

Subtitle C—Revenue Provision

SEC. 3201. INCREASE IN PENALTY FOR FAILURE TO FILE.

(a) IN GENERAL.—The second sentence of subsection (a) of section 6651 is amended by striking "$205" and inserting "$330".

(b) INFLATION ADJUSTMENT.—Section 6651(j)(1) is amended—

(1) by striking "2014" and inserting "2020",

(2) by striking "$205" and inserting "$330", and

(3) by striking "2013" and inserting "2019".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed after December 31, 2019.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The Taxpayer First Act of 2019, H.R. 1957, as reported by the Committee on Ways and Means, improves Internal Revenue Service ("IRS") operations and the administration of the tax laws by strengthening taxpayer rights, enhancing customer service, advancing information technology, and restructuring the agency.

B. BACKGROUND AND NEED FOR LEGISLATION

The last time Congress considered comprehensive revisions to IRS operations was the IRS Restructuring and Reform Act of 1998 ("RRA98"). Two decades later, it is time to revisit the IRS and return the agency back to its mission: "provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all."

In RRA98, Congress directed the agency to create an independent process for taxpayers to appeal tax disputes. While the IRS initially established an independent process, over time the agency has exercised its discretion to prevent certain taxpayers from accessing the review process. Currently, some taxpayers do not trust that the IRS's independent review process is truly independent or accessible. Taxpayers do not have access to the IRS case against them unless they request it under the Freedom of Information Act. This process takes time, and not all taxpayers are aware that it is an option.

Taxpayers frequently view the IRS as an enforcement-first agency, not simply the agency responsible for administering the Tax Code. The work of the Ways and Means Subcommittee on Oversight ("Oversight Subcommittee") revealed areas where the IRS's use of enforcement tools exceeded Congressional intent. For example, while the IRS has the ability to seize assets of taxpayers suspected to be involved in criminal activity, the IRS has used that authority to seize assets from small businesses without proving that the taxpayers engaged in criminal activity. Similarly, the agency used a different seizure authority to seize and sell on the same day, property such as bridal gowns, sports memorabilia, and workout equipment. These needlessly accelerated sales subverted routine notice requirements and have in some cases resulted in the devastation of small businesses. Further, the Subcommittee's oversight work revealed that cases assigned to the private debt collection program were returned to IRS because the taxpayers could not

afford to pay or were on Social Security supplemental or disability income.

The IRS currently lacks a satisfactory comprehensive customer service strategy with metrics and benchmarks for measuring success. Additionally, the organizational structure of the IRS is 20 years old and needs updating. RRA98 directed the Commissioner of Internal Revenue to restructure the IRS by eliminating or substantially modifying the three-tier geographic structure (national, regional, and district) in place at the time and replacing it with an organizational structure that features operating units serving particular groups of taxpayers with similar needs. Given that 20 years has passed since RRA98, the mandated organization according to particular taxpayer groups no longer allows the IRS to organize itself efficiently to best meet its mission and address the cyber security and efficiency challenges it faces.

Over the past two years, the Oversight Subcommittee has spent significant time reviewing the IRS's use of information technology (IT). The Oversight Subcommittee found that the IRS relies significantly on an ageing IT infrastructure, some of which date back to the 1960s, to administer the tax system. In addition to being expensive, outdated IRS IT systems also negatively impact taxpayers seeking to comply with their tax responsibilities, often resulting in frustrating, prolonged interactions with the IRS that could be more easily and seamlessly resolved online. In addition, as with many other public and private entities, the IRS has been subject to cyberattacks and fraud schemes that seek to exploit stolen taxpayer information in order to steal tax refunds.

C. Legislative History

Background

H.R. 1957, the Taxpayer First Act of 2019, was introduced on March 28, 2019, and was referred to the Committee on Ways and Means and the Committee on Financial Services.

Committee action

The Committee on Ways and Means marked up H.R. 1957, the Taxpayer First Act of 2019, on April 2, 2019, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The Committee on Ways and Means continually reviews IRS administration of the Federal tax laws. Most recently, in the 114th through the 116th Congresses, the Oversight Subcommittee held hearings and roundtables on reforming the IRS with a focus on improving the taxpayer experience, enhancing customer service, limiting civil asset forfeiture authority by the agency, and reviewing recommendations of the National Taxpayer Advocate. Oversight Subcommittee hearings included:

- February 11, 2015: Protecting Small Businesses from IRS Abuse (Part I);
- May 25, 2016: Protecting Small Businesses from IRS Abuse (Part II);
- April 26, 2017: Examining the 2017 Tax Filing Season;

- May 19, 2017: IRS Reform: Lessons Learned from the National Taxpayer Advocate;
- September 13, 2017: IRS Reform: Resolving Taxpayer Disputes;
- December 13, 2017: IRS Reform: The Taxpayer Experience;
- January 30, 2018: Member Day Hearing on Legislation to Improve Tax Administration;
- June 20, 2018: Update on IRS and DOJ Efforts to Return Seized Funds to Taxpayers;
- September 26, 2018: IRS Taxpayer Authentication: Strengthening Security While Ensuring Access; and
- March 7, 2019: Hearing with the National Taxpayer Advocate on the Tax Filing Season.

Roundtables included:

- June 22, 2017: Reforming the IRS—Lessons Learned from 1998, Roundtable Part I;
- July 12, 2017: Reforming the IRS—Lessons Learned from 1998, Roundtable Part II;
- June 22, 2017: Reforming the IRS—Lessons Learned from 1998, Roundtable Part I;
- July 12, 2017: Reforming the IRS—Lessons Learned from 1998, Roundtable Part II;
- Oct. 12, 2017: IRS Security Summit; and
- Jan. 17, 2018: Briefing on the IRS's Technology Roadmap.

II. EXPLANATION OF THE BILL

TITLE I—PUTTING TAXPAYERS FIRST

A. INDEPENDENT APPEALS PROCESS

1. ESTABLISHMENT OF INTERNAL REVENUE SERVICE INDEPENDENT OFFICE OF APPEALS (SEC. 1001 OF THE BILL AND SEC. 7803 OF THE CODE)

PRESENT LAW

RRA98 directed the Commissioner of Internal Revenue (the "Commissioner") to restructure the IRS by establishing and implementing an organizational structure that features operating units serving particular groups of taxpayers with similar needs and ensures an independent appeals function within the IRS.[1] Although the Code does not mandate the existence of an independent office within the IRS to review administrative determinations, it does require an independent administrative review of certain determinations,[2] and further requires that the Commissioner ensure that the duties of IRS employees are executed in a manner consistent with rights inferred from other Code provisions.[3]

Under the general authority of the Secretary of the Treasury ("Secretary") to interpret the Code and that of the Commissioner

[1] Pub. L. No. 105–206, sec. 1001(a).

[2] See, *e.g.*, secs. 6320 (notice and opportunity for hearing upon filing of notice of lien), 6330 (notice and opportunity for hearing before levy), 7122 (rejection of a proposed offer-in-compromise or installment agreement), as well as 7123 (alternative dispute resolution procedures).

[3] Section 7803, as amended in 2015, embraces the taxpayer rights as general principles to be included in the training and evaluation of all employees.

to administer the Code and to employ the persons necessary to do so,[4] the IRS operates an Office of Appeals ("Appeals") headed by a Chief, Appeals.[5] That office traditionally functions as the settlement arm of the IRS. In doing so, it reviews administrative determinations arising both from collection and examination activities, and attempts to resolve them without need for litigation, including by using alternative dispute resolution methods such as arbitration or mediation. As a result, review of administrative actions is generally available prior to payment of any tax underlying the controversy. Exceptions occur, and include cases in which inadequate time remains on the limitations period for assessment and collection or those in which the only arguments raised by the taxpayer are frivolous positions.[6]

Similarly, if a case has reached a point at which litigation is initiated, the availability of consideration by Appeals may be limited. First, authority to settle cases referred to the Department of Justice for defense or initiation of litigation rests solely with that Department. Therefore, such cases are not eligible for referral to Appeals.[7] The terms under which a case pending in the United States Tax Court ("Tax Court") may be referred to Appeals are described in published guidance that centralizes the decision to withhold a case from Appeals to assure consistent standards are applied.[8]

Employees of Appeals are compensated in accordance with the rules governing Federal employment generally.[9]

REASONS FOR CHANGE

The Committee is aware that the Code does not currently require that all taxpayers be provided an opportunity to contest an administrative decision in Appeals, although most taxpayers are afforded that opportunity. To foster confidence in the integrity of the IRS and the independence of its administrative proceedings and to encourage voluntary compliance, the Committee believes it is advisable to codify the role of an independent administrative appeals function within the IRS and provide new guidelines for procedures that the IRS is to follow in the new office. In doing so, the Committee seeks to reassure taxpayers of the independence of the persons providing the administrative review.

The new administrative guidelines required by this provision are intended to clarify the rules against *ex parte* communications, thus protecting taxpayer rights, while ensuring that employees in the new office are able to seek independent advice from the Office of

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[4] Secs. 7803(a) (The duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party, and to recommend to the President a candidate for Chief Counsel (and recommend the removal of the Chief Counsel)) and 7804 (The Commissioner is authorized to employ such persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws and is required to issue all necessary directions, instructions, orders, and rules applicable to such persons, including determination and designation of posts of duty), and 7805 (Secretary authority to interpret the Code).

[5] According to its website, the Office of Appeals and its predecessors have existed since 1927. https://www.irs.gov/compliance/appeals/appeals-an-independent-organization.

[6] See section 6702(c), which requires that the Secretary periodically review and list positions that have been identified as frivolous for purposes of the frivolous return penalty.

[7] Sec. 7122.

[8] Rev. Proc. 2016–22, 26 C.F.R. sec. 601.106. Exceptions to the general rule in favor of requiring Appeals consideration include cases that are withheld in the interests of sound tax administration, among other reasons.

[9] Part III of Title 5 of the United States Code prescribes rules for Federal employment, including employment, retention, and management and employee issues.

Chief Counsel when appropriate; require that taxpayers be provided a pre-conference opportunity to review the case file about the taxpayers; and address the standards and processes related to denial of a taxpayer request for administrative review of a case. With respect to the latter, the Committee intends to restrict and provide oversight of the procedures and standards that the IRS must follow in denying requests for an independent administrative review to taxpayers who receive a notice of deficiency from the IRS.[10] Finally, the Committee intends to exercise its oversight of the implementation of the new procedures by requiring that the IRS submit annual written reports on the number and type of cases that are denied independent administrative review.

EXPLANATION OF PROVISION

The provision codifies the requirement of an independent administrative appeals function by establishing within the IRS an office to be known as the Internal Revenue Service Independent Office of Appeals ("Independent Appeals") and to be headed by an official known as the Chief of Appeals, as described below. The purposes and duties of the office as well as the taxpayers' general right to seek consideration by that office, subject to certain limitations, are described below.

Chief of Appeals and staff

The provision grants authority to the Commissioner to appoint the Chief of Appeals, who is to be compensated at the same rate as the highest rate of basic pay established for the Senior Executive Service.[11] The appointment is not subject to the rules under Title 5 of the United States Code that govern competitive service or the Senior Executive Service. The Chief of Appeals reports directly to the Commissioner of the IRS. The person appointed to the position is required to have experience in a broad range of Federal tax law controversies and management of large service organizations.

The provision also confirms that the Chief of Appeals and her employees are to have access to legal assistance and advice from staff within the Office of Chief Counsel about cases pending at Independent Appeals. Chief Counsel is responsible for ensuring that the attorneys are able to provide independent advice. In doing so, to the extent practicable, staff assigned to answer inquiries from Independent Appeals should not include those involved in advising the IRS employees working directly on the case prior to its referral to Independent Appeals or in preparation of the case for litigation.

Functions of Independent Appeals

Independent Appeals is intended to perform functions similar to those of the current Appeals. Independent Appeals is to resolve tax controversies and review administrative decisions of the IRS in a fair and impartial manner, for the purposes of enhancing public confidence, promoting voluntary compliance, and ensuring consistent application and interpretation of Federal tax laws. Resolu-

[10] Current published guidance on the availability of Appeals consideration are discussed in Rev. Proc. 2016–22, *supra.*

[11] 5 U.S.C. sec. 5382.

tion of tax controversies in this manner is generally available to all taxpayers, subject to reasonable exceptions that the Secretary may provide. Thus, cases of a type that are referred to Appeals under present law remain eligible for referral to Independent Appeals.

The provision includes a savings clause that requires application of rules similar to those in RRA98 to ensure continuity of the validity of administrative and legal proceedings, including legal documents related to such proceedings and existing delegations of authority.

Enhancement of taxpayer access to Independent Appeals

In making access to Independent Appeals generally available to all taxpayers, the establishment of the new office clarifies the rights of taxpayers to review administrative case files and to protest denial of access to Independent Appeals.

Taxpayer access to case files

The provision requires that the administrative case file referred to Independent Appeals be available to certain individual and small business taxpayers. The specified taxpayers that are eligible are (1) individuals with adjusted gross incomes not exceeding $400,000 and (2) entities with gross receipts not exceeding $5 million for the taxable year to which the dispute relates. In determining whether persons are within the scope of the latter category, rules similar to those used to determine whether persons should be treated as a single employer for purposes of cash method accounting are to be applied.[12] Eligible taxpayers must be able to review the non-privileged portions of materials developed by the IRS not later than 10 days prior to the requested conference with Independent Appeals. In providing the materials, the IRS need not produce for the taxpayer the documents that were initially provided to the IRS by the taxpayer. In addition, the taxpayer may elect to waive the 10-day period and accept access to the materials on the date of the scheduled conference.

Cases not referred to Independent Appeals

In cases in which the IRS has issued a notice of deficiency to a taxpayer, the Commissioner must prescribe notice and protest procedures for taxpayers whose request for Independent Appeals consideration is denied. Such protest procedures will be available to taxpayers who have received a notice of deficiency in cases other than those involving only frivolous positions within the meaning of the Code.[13] The procedures must include a requirement that the Commissioner notify a taxpayer of the denial in a written statement that includes a statement of the facts underlying the basis for the denial of the request together with a detailed explanation of the reasons for denying the request for referral to Independent Appeals. In addition, the written notice must advise the taxpayer of the right to protest the denial of the request to the Commissioner and include information about how to lodge such a protest.

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[12] The aggregation rules are found at section 448(c)(2).
[13] Sec. 6702(c).

The Commissioner must provide to Congress an annual written report detailing the number of denials of access to Independent Appeals and the reasons for such denials.

EFFECTIVE DATE

The provision is generally effective upon the date of enactment, except with regard to the portion of the provision allowing taxpayer access to case files, which is effective for cases in which the conference occurs more than one year after the date of enactment.

B. IMPROVED SERVICE

1. COMPREHENSIVE CUSTOMER SERVICE STRATEGY (SEC. 1101 OF THE BILL)

PRESENT LAW

The Code provides that the Commissioner has such duties and powers as prescribed by the Secretary.[14] Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes. In executing these duties, the Commissioner depends upon strategic plans that prioritize goals and manage its resources. In the current strategic plan, adding and enhancing tools and support to improve taxpayers and tax professionals' interactions with the IRS to meet their tax obligations is identified as one of the IRS's six strategic goals.[15]

REASONS FOR CHANGE

The Committee believes that it is important for the IRS to set priorities, align activities with mission-related goals and objectives, assign accountability, and develop and use information to monitor progress and evaluate results. The Committee believes that this information will provide the IRS with tools the IRS can use to monitor and evaluate how efficiently and effectively programs are achieving their intended purposes. The Committee further believes this provision is necessary to help determine whether public resources have been used to achieve the purposes for which they were appropriated.

EXPLANATION OF PROVISION

The provision requires the Secretary to develop a comprehensive strategy for customer service and to submit such plan to Congress not later than the date which is one year after the date of enactment. The strategy will include: (1) a plan to determine appropriate levels of online services, telephone call back services, and training of employees providing customer services, based on best practices of businesses and designed to meet reasonable customer expectations; (2) an assessment of all services that the IRS can co-locate with other Federal services or offer as self-service options; (3) proposals for long-term improvements over the next 10 fiscal years, with appropriate short-term goals over the current and following

[14] Sec. 7803(a).
[15] See *Internal Revenue Service Strategic Plan FY2018–2022*, Publication 3744, available at https://www.irs.gov/pub/irs-pdf/p3744.pdf.

fiscal year and mid-term goals over the next three to five fiscal years; (4) a plan to update guidance and training materials, including the Internal Revenue Manual, for customer service employees of the IRS to reflect such strategy; and (5) metrics for measuring the IRS's progress in implementing its strategy. Within two years after the date of enactment, the Secretary or the Secretary's delegate is required to make public the updated guidance and training materials in a user friendly fashion.

EFFECTIVE DATE

The provision is effective on the date of enactment.

2. IRS FREE FILE PROGRAM (SEC. 1102 OF THE BILL)

PRESENT LAW

The IRS has entered into cooperative relationships with commercial return preparation service providers (known as the Free File Alliance) to provide free Federal tax preparation and electronic filing services to eligible low-income or elderly taxpayers. Some of these providers also offer free State tax preparation. This arrangement is commonly known as the Free File Program. Taxpayers generally must select a designated service provider through the IRS's website to access commercial online software provided by the Free File Alliance companies to prepare and file their tax returns. To qualify, taxpayers must have adjusted gross income (AGI) of $66,000 or less (for 2018 returns). Each participating company sets its own eligibility requirements and not all taxpayers will qualify to use the software of all companies. There is no fee for taxpayers using the Free File Program, and Free File Alliance companies also do not pay any fee to the IRS to participate in the program.

REASONS FOR CHANGE

The Committee believes that the IRS Free File program should be maintained and enhanced because the program increases e-file participation, provides more free online options to taxpayers, and eases tax preparation and filing. The Committee also believes that identifying and implementing innovative new program features will be helpful in continuing to reduce the burden on taxpayers.

EXPLANATION OF PROVISION

The provision requires the Secretary, or the Secretary's delegate, in cooperation with the private sector, to maintain the current IRS Free File Program that provides free individual income tax preparation and electronic filing services to the lowest 70 percent of taxpayers by adjusted gross income ("AGI") as ranked annually by the prior year taxpayer AGI data. The provision requires the IRS Free File Program to continue to make available to taxpayers at all income levels a basic, online electronic fillable forms utility. The provision further requires the IRS Free File Program work with State government agencies to enhance and expand the use of the program to provide needed benefits to taxpayers while reducing the cost of processing returns.

The provision also requires the Secretary, or the Secretary's delegate, in cooperation with the private sector, to identify and implement innovative new program features to improve and simplify the

taxpayer experience with completing and filing individual tax returns.

EFFECTIVE DATE

The provision is effective on the date of enactment.

3. LOW-INCOME EXCEPTION FOR PAYMENTS OTHERWISE REQUIRED IN CONNECTION WITH A SUBMISSION OF AN OFFER-IN-COMPROMISE (SEC. 1103 OF THE BILL AND SEC. 7122 OF THE CODE)

PRESENT LAW

The IRS is authorized to enter into offers-in-compromise under which the taxpayer and Federal government agree that a tax liability may be satisfied by payment of less than the full amount owed.[16] An offer-in-compromise may be accepted on one of three grounds: (1) doubt as to liability, available in cases in which the validity of the actual tax liability is in question; (2) doubt as to collectability based on lack of sufficient assets from which the tax, interest, and penalties can be paid in full; or (3) effective tax administration, applicable in a case in which collection in full would cause the taxpayer economic hardship such that compromise rather than collection would better encourage tax compliance.[17] If the unpaid tax liabilities total $50,000 or more, an offer-in-compromise can be accepted only if a public report is filed, supported by a written opinion from the IRS Chief Counsel, stating the reasons for the compromise, the amounts of assessed tax, penalties and interest, and the amounts actually paid pursuant to the offer-in-compromise.[18]

Taxpayers making a lump sum offer-in-compromise must include a nonrefundable payment of 20 percent of the lump sum with the initial offer (herein, "upfront partial payment").[19] The IRS waives this upfront partial payment when an offer is submitted by a low-income taxpayer, defined as an individual who falls at or below 250 percent of the poverty guidelines published by the Department of Health and Human Services, or such other measure that is adopted by the Secretary (herein, "low-income taxpayer").[20] Taxpayers seeking an offer-in-compromise involving periodic payments must provide a nonrefundable payment of the first installment that would be due if the offer were accepted.[21]

In general, a taxpayer is required to provide a user fee for processing the offer-in-compromise.[22] However, no fee will be charged if an offer either is based solely on doubt as to liability or is made by a low-income taxpayer.[23]

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[16] Sec. 7122.

[17] Treas. Reg. sec. 1.7122–1(b). For this purpose, economic hardship is defined under Treas. Reg. sec. 301.6343–1.

[18] Sec. 7122(b); Treas. Reg. sec. 1.7122–1(e)(6). The $50,000 threshold was raised from $500 in 1996. Sec. 503 of the Taxpayer Bill of Rights 2, Pub. L. No. 104–168.

[19] Sec. 7122(c)(1)(A).

[20] Notice 2006–68, 2006–31 I.R.B. 105, July 31, 2006.

[21] Sec. 7122(c)(1)(B).

[22] Treas. Reg. sec. 300.3(b). The fee for processing an offer to compromise on or after January 1, 2014, is $186. Proposed Treasury regulations would increase the fee to $300. 81 Fed. Reg. 70654 (Nov. 28, 2016).

[23] Treas. Reg. sec. 300.3(b)(i) and (ii).

REASONS FOR CHANGE

The Committee believes that the offer-in-compromise program has been successful in raising revenue both from offers and by bringing taxpayers back into the system. The Committee also believes that certain low-income taxpayers are unable to participate in the program because they cannot afford the user fee or upfront payment. The Committee believes that, with the low-income taxpayer exception, access to the program would be substantially increased resulting in improved ability to obtain the collectable portion of existing tax liabilities. The Committee believes that codifying the exception helps ensure that there will be no decrease in the number of legitimate offers submitted, the number of offers accepted, and the number of individuals reentering the tax system.

EXPLANATION OF PROVISION

The provision codifies the current low-income taxpayer exception with respect to any user fee or upfront partial payment imposed with respect to any offer-in-compromise. The provision makes clear that the determination of low-income is based on the individual's adjusted gross income as determined for the most recent tax year for which such information is available.

EFFECTIVE DATE

The provision applies to offers-in-compromise submitted after the date of enactment.

C. Sensible Enforcement

1. INTERNAL REVENUE SERVICE SEIZURE REQUIREMENTS WITH RESPECT TO STRUCTURING TRANSACTIONS (SEC. 1201 OF THE BILL)

PRESENT LAW

The Bank Secrecy Act of 1970 ("BSA") mandates a reporting and recordkeeping system that assists Federal law enforcement and regulatory agencies in the detection, monitoring, and tracing of certain monetary transactions.[24] The reporting requirements are imposed on individuals, financial institutions, and non-financial trades and businesses that act similar to financial institutions.[25] The requirements include reporting currency transactions exceeding $10,000.

To circumvent these reporting requirements, individuals sometimes structure cash transactions to fall below the $10,000 reporting threshold (referred to as "structuring"). In other words, instead of conducting a single transaction in currency in an amount that would require a report to be filed or record made by a financial institution, an individual conducts a series of currency transactions, willfully keeping each individual transaction at an amount below $10,000 to evade reporting or recording. Structuring can be used to conceal illegal cash-generating activities, such as the selling of narcotics, and to conceal income earned legally in order to evade the payment of taxes. Structuring (or attempts to structure) for the

[24] The Bank Secrecy Act, 31 U.S.C. secs. 5311–5332.
[25] 31 U.S.C. sec. 5312(a)(1).

purpose of evading the reporting and recordkeeping requirements [26] is subject to both civil and criminal penalties.[27]

Present law authorizes forfeiture of property involved in transactions or attempted transactions [28] in violation of these rules in accordance with the procedures governing civil forfeitures in money laundering cases.[29]

The Secretary has delegated responsibility for implementing and enforcing the BSA to the Director, Financial Crimes Enforcement Network ("FinCEN"), who in turn re-delegated responsibility for civil compliance with the law to various Federal agencies including the IRS.[30] The scope of that delegation of authority was expanded by the USA PATRIOT Act of 2001,[31] and includes authority to determine and enforce civil penalties.[32] The IRS administers its delegated authority under the BSA through the IRS Small Business/ Self-Employed Division, with assistance from the IRS Criminal Investigation Division ("IRS–CID").

If a person prevails in a civil forfeiture proceeding involving seizure of currency, the United States is liable for reasonable attorney fees and other litigation costs reasonably incurred by the claimant, post-judgment interest, and interest actually paid to the United States from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument as well as imputed interest for any period for which no interest was paid.[33]

Prior to October 2014, the IRS provided partial relief in structuring transactions involving a first offense, a legitimate funding source, and no criminal conviction. The IRS procedures also required its criminal investigation division to consider additional mitigating or aggravating factors. On October 17, 2014, IRS–CID issued guidance on how it will conduct seizures and forfeitures in its structuring cases.[34] Pursuant to this guidance, the IRS will not

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[26] 31 U.S.C. sec. 5324(a); 31 U.S.C. sec 5322.

[27] A person who willfully violates the law is subject to a fine of not more than $250,000, or imprisonment for not more than five years, or both. 31 U.S.C. sec. 5324(a); 31 U.S.C. sec. 5322.

[28] 31 U.S.C. sec. 5317(c)(2).

[29] See 18 U.S.C. sec. 981.

[30] Treasury Order 180–01, available at https://www.treasury.gov/about/role-of-treasury/orders-directives/Pages/to180-01.aspx, delegating authority to FinCEN. 31 C.F.R. sec. 103.56(b)(8). At the time of the initial delegation, FinCEN was an entity created by regulatory action, but has since been explicitly authorized by statute. 31 U.S.C. sec. 310.

[31] Treasury Order 180–01. For a discussion of the relationship between FinCEN and the agencies to which it re-delegated authority, see, Office of Inspector General, "TERRORIST FINANCING/MONEY LAUNDERING: Responsibility for Bank Secrecy Act Is Spread Across Many Organizations," OIG–08–030 (April 9, 2008), available at https://www.treasury.gov/about/organizational-structure/ig/Documents/oig08030.pdf.

[32] A penalty may be assessed before the end of the six-year period beginning on the date of the transaction with respect to which the penalty is assessed. 31 U.S.C. sec. 5321(b)(1). A civil action for collection may be commenced within two years of the later of the date of assessment and the date a judgment becomes final in any a related criminal action. 31 U.S.C. sec. 5321(b)(2).

[33] 28 U.S.C. sec. 2465(b)(1). The imputed interest that may be paid under that section is the amount that such currency, instruments, or proceeds would have earned at the rate applicable to the 30-day Treasury Bill, for any period for which no interest was paid (not including any period when the property reasonably was in use as evidence in an official proceeding or in conducting scientific tests for the purpose of collecting evidence), commencing 15 days after the property was seized by a Federal law enforcement agency, or was turned over to a Federal law enforcement agency by a State or local law enforcement agency.

[34] Memorandum for Special Agents in Charge Criminal Investigation, October 17, 2014, available at http://ij.org/wp-content/uploads/2015/07/IJ068495.pdf. Written Testimony of John A. Koskinen and Richard Weber, House Committee on Ways and Means Subcommittee on Oversight on ″Financial Transaction Structuring,″ May 25, 2016, available at https://www.irs.gov/uac/newsroom/written-testimony-of-john-a-koskinen-and-richard-weber-before-the-house-committee-on-ways-and-means-subcommittee-on-oversight-on-financial-transaction-structuring-may-25-2016; New IRS Special Procedure to Allow Property Owners to Request Return of Property,

pursue seizure and forfeiture of funds associated only with so-called "legal source" structuring unless (1) there are exceptional circumstances justifying the seizure and forfeiture and (2) the case is approved by the Director of Field Operations.

REASONS FOR CHANGE

The Committee is aware that people sometimes structure series of cash transactions so that each transaction falls below $10,000 in order to circumvent BSA reporting and recordkeeping requirements. Structuring (or attempts to structure) for the purpose of evading the BSA reporting and record keeping requirements [35] is subject to both civil and criminal penalties because structuring may represent an attempt to conceal illegal activities such as the selling of narcotics or evasion of taxes, for example.

The Committee is also aware of numerous instances in which the IRS seized taxpayer assets on the basis of suspected structuring in violation of BSA reporting and recordkeeping rules. The Committee believes it is necessary to limit the authority of the IRS by requiring that the IRS show probable cause that funds subject to forfeiture for structuring were derived from an illegal source or connected to other criminal activity before the IRS can seize funds. The Committee also believes it is necessary to implement new procedural protections for persons whose assets the IRS has seized in such forfeiture actions, including a post-seizure hearing.

EXPLANATION OF PROVISION

The provision provides that in the case of a suspected structuring violation, the IRS may only pursue seizure or forfeiture of assets if either the property to be seized was derived from an illegal source or the transactions were structured for the purpose of concealing a violation of a criminal law or regulation other than rules against structuring.

The provision establishes post-seizure notice and review procedures for IRS seizures based on suspected structuring violations. The IRS must, within 30 days, make a good faith effort to find all persons with an ownership interest in the property seized and inform him or her of certain post-seizure hearing rights provided under the provision. This 30-day notice requirement may be extended an additional 30 days if the IRS can establish to a court probable cause of an imminent threat to national security or personal safety. If a notice recipient requests a court hearing within 30 days of the notice, the property is required to be returned unless the court finds that there is probable cause to believe that a structuring violation occurred involving such property and the property to be seized was derived from an illegal source or the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than the structuring provisions of the BSA.

Funds in Specific Structuring Cases, June 16, 2016, available at https://www.irs.gov/uac/newsroom/new-irs-special-procedure-to-allow-property-owners-to-request-return-of-property-funds-in-specific-structuring-cases; Letter to Chairman Roskam and Ranking Member Lewis summarizing planned actions, June 10, 2016, available at http://waysandmeans.house.gov/wp-content/uploads/2016/06/6.9-Roskam-Lewis-Response-Letter-and-Enclosure.pdf.

[35] 31 U.S.C. secs. 5313(a), 5324(a).

EFFECTIVE DATE

The provision is effective on the date of enactment.

2. EXCLUSION OF INTEREST RECEIVED IN ACTION TO RECOVER PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE BASED ON STRUCTURING TRANSACTION (SEC. 1202 OF THE BILL AND NEW SEC. 139H OF THE CODE)

PRESENT LAW

Nothing in the BSA or the administrative guidance issued by the IRS affects the Federal tax treatment of the interest that may be paid to a successful litigant in civil asset forfeiture proceedings. The Code provides no specific exclusion from gross income or deduction from adjusted gross income for interest received by a successful litigant pursuant to an action to recover property seized by the IRS pursuant to the BSA. Accordingly, the interest received is includable in gross income under the Code.

REASONS FOR CHANGE

The Committee believes interest received from the Federal government on wrongly seized property should be exempt from income tax if a court determines the Government must return the funds and interest accrued to the victim of IRS abuse.

EXPLANATION OF PROVISION

The provision amends the Code to exclude from gross income any interest received from the Federal Government in connection with an action to recover property seized by the IRS pursuant to a claimed violation of the structuring provisions of the BSA.

EFFECTIVE DATE

The provision applies to interest received on or after the date of enactment.

3. CLARIFICATION OF EQUITABLE RELIEF FROM JOINT LIABILITY (SEC. 1203 OF THE BILL AND SEC. 6015 OF THE CODE)

PRESENT LAW

If a married couple elects to file a tax return on which they report their income jointly, they are generally jointly and severally liable for the entire tax liability that should have been reported on the joint return.[36] A spouse may be entitled to relief from joint liability, in whole or in part, under the innocent spouse relief provisions of the Code.

Grounds for relief from joint liability

There are three types of relief: general innocent spouse relief; relief for spouses no longer married or legally separated (separation of liabilities); and equitable relief. The grounds for relief and its scope differ among these three types of relief. In addition, the first two types of relief must be sought no later than two years after the

[36] Sec. 6103(d).

date the IRS began collection activities against the electing spouse. For equitable relief, there is no limitations period in the statute.

General relief from joint liability with respect to an understatement of tax is available to all joint filers who make a timely election for such relief and are able to establish the following.[37] First, the electing spouse must establish that the underpayment is attributable to the erroneous items of the other spouse. Second, the electing spouse must show that at the time of signing the return, he or she did not know or have reason to know there was an understatement of tax. Finally, relief is granted only if it is inequitable to hold the electing spouse liable for the deficiency in tax, based on all facts and circumstances.

Separation of liabilities relief from joint liability with respect to a deficiency is available to persons who are no longer married, are legally separated, or were no longer living together in the 12 months ending with the date innocent spouse relief is elected.[38] The individual electing relief on this basis must establish the portion of any deficiency that is appropriately allocable to him or her. Special rules are provided in the Code for determining allocation of items that benefit one spouse more than the other, property transfers, and children's liability. Relief otherwise available is not permitted with respect to items of which a spouse was aware at the time the return was signed and which contributed to a deficiency.

Equitable relief from joint liability may be available to those spouses who are ineligible under the provisions for general relief or separation of liabilities relief.[39] Such relief is granted only if, taking into account all facts and circumstances, it is inequitable to hold the individual liable for the unpaid portion of tax or for a deficiency with respect to the joint return.

Availability and scope of judicial review

If an individual elects to have the general relief provision or the separation of liabilities relief provision apply with respect to a deficiency, the individual may petition the Tax Court to review unfavorable determinations by the IRS with respect to the claimed relief. The Tax Court has held that its authority to review such IRS determinations is under a *de novo* standard.[40]

The claim for relief from joint liability must be filed no later than 90 days after the notice of final determination on relief from joint liability and no earlier than the earlier of the mailing of such notice of final determination or the date which is six months after electing such relief. During the pendency of the Tax Court proceeding, or during the period in which a petition may be filed, collection action is restricted.

In contrast to claims under the general relief or separation of liabilities provisions described above, the extent to which a denial of a claim for equitable relief from joint liability is also subject to judicial review by the Tax Court, the scope of that review, and the standard for any review have been the subject of conflicting appellate decisions. An abuse of discretion standard based on court review of the administrative record was held to be the correct stand-

[37] Sec. 6015(b).
[38] Sec. 6015(c).
[39] Sec. 6015(f).
[40] Sec. 6015(e)(1).

ard in some instances,[41] but other courts have permitted review of information beyond the administrative record while applying an abuse of discretion standard.[42] Still others have applied a *de novo* standard to both the scope of the review and the standard of review.[43]

REASONS FOR CHANGE

The Committee is aware that the extent to which a denial of a claim for equitable relief from joint liability is subject to judicial review by the Tax Court and the scope of any such review have been the subject of conflicting appellate decisions. As a result, persons residing in different states, but whose circumstances are otherwise similar, may be accorded different rights to judicial review under the Code. The Committee believes that such disparity of treatment can be avoided if the statute is clarified to confer a right to judicial review in all cases, and to specify the scope of such review.

EXPLANATION OF PROVISION

Under the provision, Tax Court review of innocent spouse equitable relief cases is not limited to the administrative record, but it may consider evidence that is newly discovered or was previously unavailable. The provision also clarifies that the Tax Court has jurisdiction to review a denial of equitable claims for relief from joint liability, and is not limited to a review for abuse of discretion by the IRS.

The provision allows taxpayers to request equitable relief with respect to any unpaid liability before the expiration of the collection period or, if paid, before the expiration of the applicable limitations period for claiming a refund or credit.

EFFECTIVE DATE

The provision applies to petitions or requests filed or pending on or after the date of enactment.

4. MODIFICATION OF PROCEDURES FOR ISSUANCE OF THIRD-PARTY SUMMONS (SEC. 1204 OF THE BILL AND SEC. 7609 OF THE CODE)

PRESENT LAW

The IRS has broad statutory authority to require production of information in the course of an examination.[44] A request for information in the form of an administrative summons is enforceable if the IRS establishes its good faith, as evidenced by the factors enunciated by the Supreme Court in *United States v. Powell*.[45] The U.S. Supreme Court articulated four basic elements necessary to establish that the government issued a summons in good faith: (1) the investigation must be conducted for a legitimate purpose; (2) the information sought is relevant to and "may shed light on" that legitimate purpose; (3) the requested information is not already in

[41] *Jonson v. Commissioner*, 118 T.C. 106, 125 (2002), aff'd on other grounds, 353 F.3d 1181 (10th Cir. 2003); *Mitchell v. Commissioner*, 292 F.3d 800, 807 (D.C. Cir. 2002); *Cheshire v. Commissioner*, 282 F.3d 326, 337–38 (5th Cir. 2002).

[42] *Commissioner v. Neal*, 557 F.3d 1262 (11th Cir. 2009).

[43] *Wilson v. Commissioner*, 705 F.3d 980 (9th Cir. 2013), acq'd, I.R.B. 2013–25 (June 17, 2013); *Porter v. Commissioner*, 132 T.C. 203, 132 T.C. No. 11 (2009).

[44] Sec. 7602.

[45] *United States v. Powell*, 379 U.S. 48 (1964).

the possession of the IRS; and (4) the IRS complied with all statutorily required administrative steps.[46] Subsequent to *United States v. Powell*, the legitimacy of using an administrative summons in furtherance of an investigation into criminal violations was validated in *United States v. LaSalle National Bank*,[47] in which the Supreme Court determined that the dual civil and criminal purpose was legitimate, so long as there had not yet been a commitment to refer the case for prosecution.

The use of this summons authority to obtain information from third-parties is subject to certain procedural safeguards,[48] but otherwise the same good faith elements are analyzed to determine whether the summons should be enforced.[49] When the existence of a possibly non-compliant taxpayer is known but not his identity, as in the case of holders of offshore bank accounts or investors in particular abusive transactions, the IRS is able to issue a summons (referred to as a "John Doe" summons) to learn the identity of the taxpayer, but must first meet significantly greater statutory requirements to guard against fishing expeditions.

An effort to learn the identity of unnamed John Does requires that the United States seek judicial review in an *ex parte* proceeding prior to issuance of the John Doe summons. In its application and supporting documents,[50] the United States must establish that the information sought pertains to an ascertainable group of persons, that there is a reasonable basis to believe that taxes have been avoided, and that the information is not otherwise available.[51] The reviewing court does not determine whether the John Doe summons will ultimately be enforceable. Once a court has determined that the predicate for issuance of a summons is met, the summons is served, and the summoned party served may challenge enforcement of the summons, based on the *Powell* factors. It is not entitled to judicial review of the *ex parte* ruling that permitted issuance of the summons.[52] Nevertheless, enforcement of a John Doe summons is likely to be subject to time-consuming challenges, possibly warranting an extension of the limitations period.

REASONS FOR CHANGE

The Committee believes that the John Doe summons is a useful tool, but that it is important that the information sought in the summons be at least potentially relevant to the tax liability of an ascertainable group.

The Committee also believes that the use of this important tool has at times potentially exceeded its intended purpose. A John Doe summons is not intended to be an opening bid for information from the party being served nor is it intended to be used for the purposes of a fishing expedition. Given the IRS's past use of this au-

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[46] *United States v. Powell*, 379 U.S. 48, pp. 57–58 (1964).
[47] 437 U.S. 298 (1978); codified in section 7609(c).
[48] Sec. 7609.
[49] *Tiffany Fine Arts, Inc. v. United States*, 479 U.S. 310 (1985).
[50] Sec. 7609(h)(2) provides that the determination will be made *ex parte*, solely on the pleadings.
[51] Sec. 7609(f).
[52] *United States v. Samuels, Kramer & Co., and First Western Government Securities, Inc.*, 712 F.2d 1342 (9th Cir. 1983), which affirmed a lower court determination that the issuance of the John Doe summons was not subject to review, but reversed and remanded to permit a limited evidentiary hearing on whether the *Powell* standard was met.

thority, the Committee feels it is necessary to clarify its intended usage.

EXPLANATION OF PROVISION

The provision prevents the Secretary from issuing a John Doe summons unless the information sought to be obtained is narrowly tailored and pertains to the failure (or potential failure) of the person or group or class of persons referred to in the statute to comply with one or more provisions of the Code which have been identified. The provision is not intended to change the *Powell* standard or otherwise affect the IRS's burden of proof.

EFFECTIVE DATE

The provision applies to summonses served after the date that is 45 days after the date of enactment.

5. PRIVATE DEBT COLLECTION AND SPECIAL COMPLIANCE PERSONNEL PROGRAM (SEC. 1205 OF THE BILL AND SEC. 6306 OF THE CODE)

PRESENT LAW

Qualified tax collection contracts

The Code permits the IRS to use private debt collection companies to locate and contact taxpayers owing outstanding tax liabilities of any type[53] and to arrange payment of those taxes by the taxpayers.[54] For this purpose, the Secretary enters into qualified tax collection contracts for the collection of inactive tax receivables. Under these contracts, if the taxpayer cannot pay in full immediately, the private debt collection company offers the taxpayer an installment agreement providing for full payment of the taxes over a period of as long as five years.

Inactive tax receivables are defined as any tax receivable (i) removed from the active inventory for lack of resources or inability to locate the taxpayer, (ii) for which more than 1/3 of the applicable limitations period has lapsed and no IRS employee has been assigned to collect the receivable; and (iii) for which, a receivable has been assigned for collection but more than 365 days have passed without interaction with the taxpayer or a third party for purposes of furthering the collection. Tax receivables are defined as any outstanding assessment which the IRS includes in potentially collectible inventory.

Certain tax receivables are not eligible for collection under qualified tax collection contracts, if such receivable: (i) is subject to a pending or active offer-in-compromise or installment agreement; (ii) is classified as an innocent spouse case; (iii) involves a taxpayer identified by the Secretary as being (a) deceased, (b) under the age of 18, (c) in a designated combat zone, or (d) a victim of tax-related identity theft; (iv) is currently under examination, litigation, criminal investigation, or levy; or (v) is currently subject to a proper exercise of a right of appeal.

[53] This provision generally applies to any type of tax imposed under the Internal Revenue Code.

[54] Sec. 6306.

Special compliance personnel program

An amount not greater than 25 percent of the amount collected under any qualified tax collection contract is to be used to fund a special compliance personnel program. The Secretary is required to establish an account for the hiring, training, and employment of special compliance personnel. No other source of funding for the program is permitted, and funds deposited in the special account are restricted to use for the program, including reimbursement of the IRS and other agencies for the cost of administering the qualified debt collection program and all costs associated with employment of special compliance personnel and the retraining and reassignment of other personnel as special compliance personnel. Special compliance personnel are individuals employed by the IRS to serve either as revenue officers performing field collection functions, or as persons operating the automated collection system.

REASONS FOR CHANGE

The Committee believes that an exception from the private debt collection program is needed for certain low-income individual taxpayers to protect such taxpayers from entering into payment plans they cannot afford, which ultimately does not result in an increase in actual payments recovered. The Committee intends that by eliminating certain low-income taxpayers from the private debt collection program efforts can be focused on collecting debt from taxpayers with an ability to pay and higher dollar debts.

The Committee also believes that modifying the definition of inactive tax receivables to include those in which more than two years has passed since assessment will result in an increase in actual payments recovered.

The Committee further believes that codifying the current IRS practice permitting seven-year installment agreements for the private debt collection program will result in fairer tax administration and an increase in actual payments received.

The Committee believes that, to ensure the special compliance personnel program is operating effectively, a clarification is needed to make clear that the IRS may use funds from the special compliance personnel program account for various program costs, including information technology associated with implementing the program.

EXPLANATION OF PROVISION

The provision makes certain additional tax receivables of individual taxpayers ineligible for collection under qualified tax collection contracts. Such receivables involve a taxpayer (1) substantially all of whose income consists of disability insurance benefits under section 233 of the Social Security Act (referred to as Social Security Disability Insurance or SSDI) or supplemental security income benefits under title XVI of the Social Security Act (referred to as Supplemental Security Income or SSI) or (2) whose adjusted gross income, as determined for the most recent taxable year for which information is available, does not exceed 200 percent of the applicable poverty level (as determined by the Secretary).

The provision also modifies the definition of inactive tax receivable by replacing the condition that more than 1/3 of the applicable

limitations period has lapsed with the requirement that "more than two years has passed since assessment." The provision retains the requirement that no IRS employee has been assigned to collect the receivable.

The provision also modifies the definition of a qualified tax collection contract to allow the private debt collection company to offer the taxpayer an installment agreement providing for full payment of the taxes over a period of as long as seven years, replacing the current law period of five years.

The provision clarifies that the IRS may use funds from the special compliance personnel program account for various program costs, including the costs of hiring any personnel, communications, software, technology, and reimbursement of the IRS or other government agencies for the cost of administering the qualified tax collection program.

EFFECTIVE DATE

The provision to make certain tax receivables of individual taxpayers ineligible for collection under qualified tax collection contracts and the provision to modify the definition of inactive tax receivables applies to tax receivables identified by the Secretary (or the Secretary's delegate) after December 31, 2020.

The provision to modify the definition of a qualified tax collection contract applies to contracts entered into after the date of enactment.

The provision relating to the use of the special compliance personnel program account applies to amounts expended from the account after the date of enactment.

6. REFORM OF NOTICE OF CONTACT OF THIRD PARTIES (SEC. 1206 OF THE BILL AND SEC. 7602 OF THE CODE)

PRESENT LAW

The IRS may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of the taxpayer without providing reasonable notice in advance to the taxpayer that the IRS may contact persons other than the taxpayer. The IRS is required to provide periodically to the taxpayer a record of persons contacted during the prior period by the IRS with respect to the determination or collection of that taxpayer's tax liability. This record is also required to be provided upon request of the taxpayer. This notice requirement does not apply to criminal tax matters, if the collection of the tax liability is in jeopardy, if the Secretary determines for good cause shown that disclosure may involve reprisal against any person, or if the taxpayer authorized the contact.

REASONS FOR CHANGE

The Committee believes that the current notification requirement before the IRS contacts third parties regarding examination or collection activities is insufficient.[55] Such contacts may have a chilling

[55] Testimony of Kathy Petronchak, House Committee on Ways and Means, Subcommittee on Oversight Hearing on "Resolving Taxpayer Disputes," September 13, 2017, p. 9, available at https://waysandmeans.house.gov/wp-content/uploads/2017/09/20170913-OS-Testimony-Petronchak.pdf ("Such notice is useless and does not effectively apprise taxpayers that such con-

effect on the taxpayer's business and could damage the taxpayer's reputation in the community. The Committee believes that the provision's notification requirements will provide taxpayers more of an opportunity to resolve issues and volunteer information before the IRS contacts third parties.

EXPLANATION OF PROVISION

The provision replaces the requirement that the IRS provide reasonable notice in advance to the taxpayer with a requirement that the taxpayer be provided, at least 45 days before the beginning of the period of contact, notice that contacts with persons other than the taxpayer are intended. The period of contact may not be greater than one year. However, notices are permitted to be issued to the same taxpayer with respect to the same tax liability with periods specified that, in the aggregate, exceed one year. The provision requires the notice to be provided only if there is a present intent at the time such notice is given for the IRS to make such contacts. This intent can be met on the basis of the assumption that the information sought to be obtained will not be obtained by other means before such contact.

EFFECTIVE DATE

The provision applies to notices provided, and contacts made, after the date which is 45 days after the date of enactment.

7. MODIFICATION OF AUTHORITY TO ISSUE DESIGNATED SUMMONS (SEC. 1207 OF THE BILL AND SEC. 6503(J) OF THE CODE)

PRESENT LAW

During an audit, the IRS may informally request that the taxpayer provide additional information necessary to arrive at a fair and accurate audit adjustment, if any adjustment is warranted. Not all taxpayers cooperate with such requests, whether by failing to respond or by providing inadequate or incomplete responses. In such cases, if the necessary information cannot be developed from other witnesses or sources, the IRS seeks information by issuing an administrative summons.[56] If the taxpayer does not cooperate with the request in the summons, the IRS may refer the summons to the Department of Justice to seek and obtain an order for enforcement in Federal court. If the summons in question was issued to a third-party rather than the taxpayer, the taxpayer may petition the court to quash an administrative summons.[57]

In *United States v. Powell*,[58] the U.S. Supreme Court articulated four basic elements necessary to establish that the government issued a summons in good faith: (1) the investigation must be conducted for a legitimate purpose; (2) the information sought is relevant to and "may shed light on" that legitimate purpose; (3) the requested information is not already in the possession of the IRS; and (4) the IRS complied with all statutorily required administrative steps. All petitions to enforce an administrative summons must

tact will be made, to whom it will be made, or that the taxpayer can request a third party contact report from the IRS.").

[56] Sec. 7602.

[57] Sec. 7609.

[58] United States v. Powell, 379 U.S. 48, pp. 57–58 (1964).

include allegations and supporting declarations to establish that the good faith standards are met.[59] Although the good faith standards established in *United States v. Powell* apply to all administrative summonses, they are not the sole source of limitations on the IRS's ability to compel production of information during an examination.[60]

Neither service of an administrative summons nor government-initiated action for judicial enforcement is sufficient to suspend the limitations period.[61] As a result, in the case of an examination of complicated issues of a large corporation, involving voluminous records, numerous witness interviews, and possible expert reports, the general three-year period for assessment may be inadequate to allow for completion of an examination.[62] In such cases, the limitations period is often but not always extended by agreement of the parties. An uncooperative taxpayer could force a premature conclusion to an audit by delaying responses and allowing the statute to expire. To guard against such situations in cases in which the IRS requires additional information and time to complete its work,[63] the Code authorizes issuance of a designated summons that triggers suspension of the limitations period if judicial enforcement proceedings are initiated.

A designated summons is an administrative summons that is issued to a large corporation (or person to whom the corporation has transferred the requested books and records) with respect to one or more taxable periods currently under examination in the Coordinated Industry Case program and meets three conditions. First, it must be reviewed and approved by the Division Commissioner and Division Counsel of the relevant IRS operating division or organization with jurisdiction over the return. Second, it must be issued at least 60 days before the expiration of the assessment limitations period (as extended). Finally, it must clearly state that it is a "designated summons."[64] No more than one designated summons may be issued with respect to a return under examination.

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[59] Department of Justice, Tax Division, *Summons Enforcement Manual*, (updated through July 2011), available at https://www.justice.gov/sites/default/files/tax/legacy/2011/08/31/SumEnfMan_July2011.pdf.

[60] *See, e.g.*, secs. 7602 (summonses in furtherance of a criminal investigation may be issued, provided that the IRS has not referred the investigation to the Department of Justice for prosecution of the taxpayer whose tax liability is the subject of the summons), 7609 (summons issued to a third-party record-keeper), 7611 (examinations of churches), 7612 (summons for computer software). Summonses to obtain information responsive to a request for exchange of information under a tax treaty present special enforcement issues, both procedural and substantive as well. *Mazurek v. United States*, 271 F.3d 226 (5th Cir. 2001).

[61] In the case of third-party summonses, the limitations period is suspended if a taxpayer named in the summons initiates a proceeding to quash the summons, or if compliance with the summons remains unresolved as of the date which is six months after service of the summons.

[62] Sec. 6501 (income taxes are generally required to be assessed within three years after a taxpayer's return is filed, whether or not it was timely filed); sec. 6501(c) (there are several circumstances under which the general three-year limitations period does not begin to run, including failure to file a return or filing a false or fraudulent return with the intent to evade tax, extensions by agreement of the taxpayer and IRS, substantial omissions of income, or failure to disclose or report a listed transaction as required under section 6011 on any return or statement for a taxable year); sec. 6503 (there are also circumstances under which the three-year limitations period is suspended, including the issuance of a designated summons).

[63] In describing the provision when it was first enacted, the Conference report for the Omnibus Reconciliation Act of 1990 explained, "This provision is designed to preserve the ability of the IRS to conclude the audit and assess any taxes that may be due regardless of the length of time that it might take to obtain judicial resolution of the summons enforcement lawsuit." H. Rept. 101–964, p. 1073. Omnibus Budget Reconciliation Act of 1990, Conf. Rept. to Accompany H.R. 5835.

[64] Section 6503(j) refers to the regional officials and the Coordinated Examination Program or their successors. The Division Counsel and Commissioner of the relevant office with jurisdiction over the return have been identified in regulation as the appropriate successor officials. Treas.

If a designated summons is issued, and the taxpayer complies without any judicial enforcement proceeding, no suspension of the limitations period occurs. If the government initiates enforcement proceedings, the limitations period is suspended for the judicial enforcement period of that summons and any related summonses, *i.e.*, summonses relating to the same return and issued within 30 days after the issuance of the designated summons. If the court proceeding results in an order to comply with the summons, the limitations period is also suspended for a period of 120 days from the first day after the close of the judicial enforcement period. In addition, the limitations period expires no earlier than 60 days after the close of the judicial enforcement period, if the court does not order compliance with the summons.

Since enactment of the designated summons provision in 1990, few such summonses have been issued.[65] The IRS is now required to submit annual reports to Congress on the number of designated summonses issued each year.[66] Since 1995, three have been issued, most recently in 2014.[67]

REASONS FOR CHANGE

The Committee recognizes that issuance of a designated summons is a serious step in the examination of a tax return, given the fact that litigation over the summons would suspend the running of the period for assessing additional tax against the taxpayer under audit. The Committee also recognizes that the mere threat of the use of this tool can cause concern for taxpayers. The Committee is also cognizant that these summonses, though rarely issued, are needed due to the complexity of audits and lack of cooperation that the IRS may face in some of the largest and most complex cases. In recognition of these competing concerns, the Committee believes that the administrative process for approval and review of such summons should be tightened by requiring that a written statement be attached to the summons, in which the IRS establishes the need for the summons and that the summons was approved by a Division Commissioner and the Chief Counsel. The latter may delegate the authority to review, but not below the level of the executive in the Office of Chief Counsel who is the counterpart to the Division Commissioner. The Committee does not intend that strengthening the administrative steps required in issuing the summons be construed to disturb the good-faith standards of *United States v. Powell* for determining whether the summons is enforceable.

Reg. sec. 301.6503(j)–1. In addition, the Coordinated Industry Case program is the successor to the Coordinated Examination Program.

[65] The earliest designated summons, involving a request to require testimony from an officer of Chevron Corporation, was enforced. *United States v. Derr*, 968, F.2d 943 (9th Cir. 1992). See also *United States v. Norwest*, 116 F.3d 1227 (8th Cir. 1997) (court enforced IRS request to produce tax preparation software licensed to Norwest) and *United States v. Caltex Petroleum*, 12 F. Supp. 2d 545 (N.D. Tex. 1998) (denied IRS request to produce the software code used to calculate foreign tax credits).

[66] Sec. 1002(b) Taxpayers Bill of Rights Act 2, Pub. L. 104–168 (1996).

[67] *United States v. Microsoft*, Case No. C15–00102–RSM (W.D. Wash. May 5, 2017) (in ruling on validity of privileges, the Court ordered further document production in compliance with the designated summons and related summonses, pursuant to the earlier opinion enforcing the designated summons, at *United States v. Microsoft*, 154 F. Supp. 3d 1134 (W.D. Wash. 2015)).

EXPLANATION OF PROVISION

Under the provision, issuance of a designated summons must be preceded by review and written approval of the summons by the head of the relevant operating division and the Chief Counsel. The written approval must state facts establishing that the IRS had previously made reasonable requests for the information and must be attached to the summons. In subsequent judicial proceedings concerning the enforceability of the summons, the IRS must establish that the prior reasonable requests for information were made.

EFFECTIVE DATE

The provision applies to summonses issued after the date that is 45 days after the date of enactment.

8. LIMITATION ON ACCESS OF NON-INTERNAL REVENUE SERVICE EMPLOYEES TO RETURNS AND RETURN INFORMATION (SEC. 1208 OF THE BILL AND SEC. 7602 OF THE CODE)

PRESENT LAW

Returns and return information

General rule of confidentiality

As a general rule, returns and return information are confidential and cannot be disclosed unless authorized by the Code.[68] The definition of return information is very broad and generally includes any information received or collected by the IRS with respect to liability under the Code of any person for any tax, penalty, interest or offense. The term "return information" includes, among other items:

> a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense . . . .[69]

Disclosure exception for tax administration contracts (section 6103(n))

There are several exceptions to the general rule of confidentiality. One exception permits the disclosure of returns and return information in connection with written contracts or agreements for the acquisition of property or services for tax administration purposes ("tax administration contractor").[70]

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[68] Sec. 6103(a).
[69] Sec. 6103(b)(2)(A).
[70] Sec. 6103(n).

Summons authority

In general

For the purposes of ascertaining the correctness of any return, making a return when none has been made, determining the liability of any person for any internal revenue tax, and certain other purposes, the Secretary is authorized to examine any books, records, or other data which may be relevant or material to such inquiry, and to take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. The Secretary also is authorized to issue summonses to appear before the Secretary at the time and place named in the summons to produce books, records and other data and to give testimony, under oath, as may be relevant or material to such inquiry.

Summons interview regulations

Under the Treasury regulations, a person authorized to receive returns and return information as a tax administration contractor may receive and examine books, papers, records, or other data produced to comply with the summons, and, in the presence and under the guidance of an IRS officer or employee, participate fully in the interview of a witness summoned by the IRS to provide testimony under oath.[71]

Proposed Treasury regulations would narrow this authority by excluding non-government attorneys from receiving summoned books, papers, records, or other data, or from participating in the interview of a witness summoned by the IRS to provide testimony under oath.[72] An exception to this general exclusion is provided with respect to non-government attorneys hired for their expertise in an area other than Federal tax law. The proposed regulations would allow the IRS to hire an attorney who has specialized knowledge of foreign, state, or local law, including tax law, or in non-tax substantive law, such as patent law, property law, or environmental law. It would not permit the IRS to hire an attorney for non-substantive specialized knowledge, such as civil litigation skills. These changes are proposed to be effective for examinations begun and summonses served by the IRS on or after March 27, 2018.

REASONS FOR CHANGE

The IRS's ability to hire outside attorneys as contractors and have them question witnesses during a summons interview has raised many concerns. While the Committee recognizes the IRS's need for specialized expertise in certain substantive areas, the Committee is concerned that the statutorily prescribed roles of Chief Counsel and the Department of Justice may be circumvented when outside lawyers are permitted to conduct the questioning of summoned witnesses on behalf of the government. Such questioning is a government function that should be performed by government employees. The Committee believes that only IRS employees or employees of the Office of Chief Counsel should question

[71] Treas. Reg. sec. 301.7602–1(b)(3).
[72] Prop. Treas. Reg. sec. 301.7602–1(b)(3), 83 Fed. Reg. 13206 (March 28, 2018).

summoned witnesses on behalf of the government and restricts the contractor authority accordingly.

EXPLANATION OF PROVISION

The provision provides that the Secretary shall not, under the authority of section 6103(n) (relating to tax administration contracts), provide to a tax administration contractor any books, papers, records or other data obtained by summons, except when such person requires such information for the sole purpose of providing expert evaluation and assistance to the IRS (including, for example, access to such information by translators). Further, no person other than an officer or employee of the IRS or Office of Chief Counsel may on behalf of the Secretary question a witness under oath whose testimony was obtained by summons. The provision is not intended to restrict the Office of Chief Counsel's ability to use court reporters, translators or interpreters, photocopy services, and other similar ancillary contractors.

EFFECTIVE DATE

The provision takes effect on the date of enactment and shall not fail to apply to a contract in effect under section 6103(n) merely because such contract was in effect before the date of enactment.

D. Organizational Modernization

1. Office of the National Taxpayer Advocate (sec. 1301 of the bill and sec. 7803(c) of the code)

PRESENT LAW

In general

The Office of the Taxpayer Advocate ("OTA") is expected to represent taxpayer interests independently in disputes with the IRS. The National Taxpayer Advocate ("NTA") supervises the OTA. The NTA reports directly to the Commissioner and is entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of Title 5 of the United States Code, or if the Secretary so determines, at a rate fixed under section 9503 of such title.

The OTA has four principal functions:

1. to assist taxpayers in resolving problems with the IRS;
2. to identify areas in which taxpayers have problems in dealing with the IRS;
3. to propose changes in the administrative practices of the IRS to mitigate problems identified in (2); and
4. to identify potential legislative changes that may be appropriate to mitigate such problems.

Taxpayer Assistance Orders

A taxpayer can request a Taxpayer Assistance Order ("TAO") if the taxpayer is suffering or about to suffer a "significant hardship" as a result of the manner in which the internal revenue laws are being administered by the IRS.[73] A TAO may require the IRS with-

[73] Sec. 7811(a)(1)(A). Significant hardship is deemed to occur if one of four factors exists: (1) there is an immediate threat of adverse action; (2) there has been a delay of more than 30 days

in a specified time period, to release property of the taxpayer that has been levied upon, or to cease any action, take any action as permitted by law, or refrain from taking any action with respect to the taxpayer under specified provisions.[74]

The Commissioner, or the Deputy Commissioner may rescind a TAO issued by the NTA, only if a written explanation of the reasons for the modification or rescission is provided to the NTA.[75]

Taxpayer Assistance Directives

While a TAO is specific to a particular taxpayer, a Taxpayer Assistance Directive ("TAD") is systemic, intended to address groups of taxpayers. Delegation Order 13–3 authorizes the NTA to issue TADs to mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers) when implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment or provide an essential service to taxpayers.[76] The authority to modify or rescind a TAD is delegated to Deputy Commissioner for Operations Support, Deputy Commissioner for Services and Enforcement, and to the NTA.

Annual reports

The NTA is required to submit two reports annually to the House Committee on Ways and Means and to the Senate Finance Committee.[77] One report, due June 30 of each year, covers the OTA's objectives for the fiscal year beginning in that calendar year. Besides statistical information, the report must contain a full and substantive analysis of the objectives.

The other report, due December 31 of each year, concerns the activities of the OTA. The content of this report is set by statute.[78] Generally, the report must cover initiatives taken to improve taxpayer services and problems encountered, as well as the actions taken to resolve them and the results. Specifically, the report must cover the 20 most serious problems experienced by taxpayers. The report also must identify the 10 most litigated issues for each category of taxpayer and the areas of the tax law that impose significant compliance burdens on taxpayers or the IRS. Recommendations received from individuals with the authority to issue TAOs, and any TAO not promptly honored by the IRS, must also be included in the report. The report must also set forth recommendations for administrative and legislative action to resolve problems encountered by taxpayers.

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in resolving the taxpayer's problems; (3) the taxpayer will have to pay significant costs (including fees for professional services) if relief is not granted; or (4) the taxpayer will suffer irreparable injury, or a long term adverse impact if relief is not granted. Sec. 7811(a)(2). The NTA may also issue a TAO if the taxpayer meets requirements to be set forth in regulations. Sec. 7811(a)(1)(B).

[74] Sec. 7811(b). The provisions specified in 7811(b) are: (1) chapter 64 (relating to collection), (2) subchapter B of chapter 70 (relating to bankruptcy and receiverships), chapter 78 (relating to discovery of liability and enforcement of title) or any other provision of law which is specifically described by the NTA in such order. A TAO or action taken by the NTA applies to persons performing services under a qualified tax collection contract to the same extent and to the same manner as such order applies to the IRS.

[75] Sec. 7811(c). The NTA also may modify or rescind a TAO issued by the NTA.

[76] Delegation Order 13–3, Internal Revenue Manual 1.2.50.4 (January 17, 2001).

[77] Sec. 7803(c)(2)(B).

[78] Sec.7803(c)(2)(B)(ii)(I) through (XI).

The NTA, is required by statute to submit the reports directly to the Congressional committees without prior review of the Commissioner, the Secretary, or any officer or employee of the Treasury, the Oversight Board, or the Office of Management and Budget ("OMB").[79]

REASONS FOR CHANGE

The Committee appreciates the work of the Taxpayer Advocate Service ("TAS"), under the direction of the NTA, and its role in elevating both taxpayer-specific and systemic problems to the attention of the Commissioner. The Committee is aware that the NTA has raised concerns about the extent to which issues identified by the NTA are given adequate attention, especially in the case of Taxpayer Advocate Directives. In order to evaluate the responsiveness of the agency to such concerns, to help ensure that the research underlying some proposals and issues identified in the NTA annual report to Congress is supported by appropriate statistical methodology, and to ensure that oversight is not unnecessarily duplicative or burdensome, the Committee proposes several changes. First, it modifies the handling of Taxpayer Advocate Directives to require greater transparency and ensure timely responses to concerns raised by the Taxpayer Advocate. Next, the Committee believes that the IRS Statistics of Income should assist the NTA in her work to provide meaningful statistics. Further, the Committee notes that there are several entities overseeing the IRS, namely Congress, the Government Accountability Office, and the Treasury Inspector General for Tax Administration ("TIGTA"). To avoid duplication of efforts, the Committee believes it is appropriate to require the NTA to coordinate with TIGTA. To further streamline and focus the NTA annual report, the Congress believes it is appropriate that the annual report discuss the 10 most serious problems encountered by taxpayers.

EXPLANATION OF PROVISION

Taxpayer Advocate Directives

In the case of any TAD issued by the NTA pursuant to a delegation of authority from the Commissioner, the Commissioner or Deputy Commissioner shall modify, rescind or ensure compliance with such directive not later than 90 days after issuance of such directive. If the TAD is modified or rescinded by a Deputy Commissioner, the NTA may (not later than 90 days after such modification or rescission) appeal to the Commissioner and the Commissioner must (not later than 90 days after such appeal is made) either (1) ensure compliance with such directive as issued by the NTA, or (2) provide the NTA with the reasons for any modification or rescission made or upheld by the Commissioner pursuant to such appeal.

The NTA's annual report is to identify any TAD that is not honored by the IRS in a timely manner.

[79] Sec. 7803(c)(2)(B)(iii).

Annual reports to Congress

The provision modifies requirements of the annual report on NTA activities to require a summary of the 10 most serious problems encountered by taxpayers. Before beginning any research or study, the NTA is required to coordinate with the TIGTA to ensure that the NTA does not duplicate any action that TIGTA has already undertaken or has a detailed plan to undertake. The provision requires the IRS provide the NTA, upon request and to the extent practicable, with statistical support in connection with the preparation of the annual report on NTA activities. Such support is to include statistical studies, compilations and the review of information provided by the NTA for statistical validity and sound statistical methodology. With respect to any statistical information included in such report, the report is to include a statement of whether such statistical information was reviewed or provided by the IRS, and if so whether the IRS determined such information to be statistically valid and based on sound statistical methodology. The IRS's review and provision of statistical support does not violate the requirement that the report be submitted directly without prior review or comment from any officer or employee of the Department of the Treasury or specified other persons.

Salary of the National Taxpayer Advocate

The provision eliminates the provision relating to the determination of the NTA's salary under section 9503 of Title 5 of the United States Code. As under present law, the NTA is entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of Title 5 of the United States Code.

EFFECTIVE DATE

The provision is generally effective on the date of enactment. The provision as it relates to the salary of the NTA applies to appointments to the position of the NTA made after March 31, 2019.

2. MODERNIZATION OF INTERNAL REVENUE SERVICE ORGANIZATIONAL STRUCTURE (SEC. 1302 OF THE BILL)

PRESENT LAW

RRA98 directed the Commissioner to restructure the IRS by eliminating or substantially modifying the three-tier geographic structure (national, regional, and district) in place at the time and replacing it with an organizational structure that features operating units serving particular groups of taxpayers with similar needs.[80]

REASONS FOR CHANGE

The Committee believes that the current IRS organizational structure is one of the factors contributing to the inability of the IRS to properly serve taxpayers. The Committee believes that the current structure needs to be modernized and streamlined to help enable the IRS to better serve taxpayers and provide the necessary level of services and accountability to taxpayers in an efficient

[80] Pub. L. No. 105–206, sec. 1001(a).

manner. Accordingly, the Committee believes it appropriate to require the IRS to submit a comprehensive reorganization plan. The Committee believes that the revised structure should ensure taxpayers' rights are protected, information is kept secure, and that the IRS is approachable for taxpayers to ask questions and get assistance. Thus, the Committee seeks to provide flexibility to the IRS to reorganize its operations after the Commissioner determines that another organizational structure, different from past structures, would better serve taxpayers.

EXPLANATION OF PROVISION

The Secretary (or the Secretary's delegate) is required to submit to Congress by September 30, 2020, a comprehensive written plan to redesign the organization of the IRS. The comprehensive plan will (1) ensure the successful implementation of the priorities specified by Congress in this bill; (2) prioritize taxpayer services to ensure that all taxpayers easily and readily receive the assistance they need; (3) streamline the structure of the agency including minimizing the duplication of services and responsibilities; (4) best position the IRS to combat cybersecurity and other threats to the IRS; and (5) address whether the Criminal Division of the IRS should report directly to the Commissioner.

Beginning one year after the date on which a comprehensive plan to modify the organization of the IRS is submitted to Congress, the provision removes the RRA98 requirement of an organizational structure that features operating units serving particular groups of taxpayers with similar needs.

EFFECTIVE DATE

The provision is effective on the date of enactment.

E. OTHER PROVISIONS

1. RETURN PREPARATION PROGRAMS FOR APPLICABLE TAXPAYERS (SEC. 1401 OF THE BILL AND NEW SEC. 7526A OF THE CODE)

PRESENT LAW

The Code provides that the Secretary may allocate up to $6 million per year for matching grants to certain qualified low-income taxpayer clinics.[81] Eligible clinics are those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language. No clinic can receive more than $100,000 per year.

A qualified low-income taxpayer clinic includes (1) a clinical program at an accredited law, business, or accounting school, in which students represent low-income taxpayers, or (2) an organization exempt from tax under Code section 501(c) that either represents low-income taxpayers or provides referral to qualified representatives. A clinic is treated as representing low-income taxpayers if (i) at least 90 percent of the taxpayers represented by the clinic have income that does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of

[81] Sec. 7526.

the OMB,[82] and (ii) the amount in controversy for any taxable year is $50,000 or less.[83]

While the Code does not provide funding for matching grants, funding for such grants was provided by the Consolidated Appropriations Act, 2019.[84] Congress appropriated approximately $2.492 billion to the IRS for taxpayer services, of which not less than $18 million is to be made available for a Community Volunteer Income Tax Assistance ("VITA") matching grants program for tax return preparation assistance. VITA is a program created by the IRS in 1969 that utilizes volunteers to provide tax return preparation and filing service assistance to certain low-income taxpayers and members of underserved populations.

REASONS FOR CHANGE

The Committee believes that it is important for the IRS to continue to provide matching grants for authorized programs that effectively assist low-income taxpayers and members of underserved populations in preparing their Federal income tax returns at no cost. The Committee also believes that these programs, which rely on the participation of trained volunteers, provide qualifying taxpayers with reliable and competent assistance that helps to ensure the accuracy and timeliness of the tax returns filed.

EXPLANATION OF PROVISION

The provision codifies the VITA program and provides that the Secretary, unless otherwise provided by specific appropriation, may allocate from otherwise appropriated funds up to $30 million per year in matching grants to qualified entities for the development, expansion, or continuation of qualified tax return preparation programs assisting applicable taxpayers and members of underserved populations. The Secretary is authorized to award a multi-year grant not to exceed three years.

The grant funds may be used for ordinary and necessary operation costs (including for wages or salaries of persons coordinating the activities of the program, to develop training materials, conduct training, and perform quality reviews of the returns for which assistance has been provided under the program, for equipment purchases, and for vehicle-related expenses associated with remote or rural tax preparation services), outreach and educational activities relating to the eligibility and availability of income supports available through the Code, and services related to financial education and capability, asset development, and the establishment of savings accounts in connection with tax return preparation.

Matching funds are required to be provided on a dollar-for-dollar basis for all grants provided. Matching funds may include: (1) the salary (including fringe benefits) of individuals performing services for the program; (2) the cost of equipment used in the program; and (3) other ordinary and necessary costs that may be associated with the program. Indirect expenses, including general overhead of any

[82] For a family of four, the 2019 income limit in the 48 contiguous states, Puerto Rico, and the District of Columbia is $64,375, available at https://www.irs.gov/advocate/low-income-taxpayer-clinics/low-income-taxpayer-clinic-income-eligibility-guidelines.

[83] Sec. 7463.

[84] Pub. L. No. 116–6, Div. D, Title I (February 15, 2019).

entity administering the program, are not counted as matching funds.

In awarding grants, priority is given to applications that (1) demonstrate assistance to certain applicable taxpayers with an emphasis on outreach, (2) demonstrate taxpayer outreach and education around available income supports available through the Code, and (3) demonstrate specific outreach and focus on one or more underserved populations.

The provision requires the Secretary to establish procedures for periodic site visits not less than once every five calendar years (i) to ensure the program is carrying out the stated purpose and (ii) to determine whether the VITA grant program meets certain program adherence standards as the Secretary will require. If any qualified return preparation program is awarded a grant and is subsequently determined not to meet the adherence standards or not to be carrying out the stated purposes, such program will not be eligible for additional grants unless the program provides sufficient documentation of corrective measures established to address any deficiencies determined.

Qualified return preparation program means any program (1) that provides assistance to individuals, at least 90 percent of whom are applicable taxpayers, in preparing and filing Federal income tax returns, (2) that is administered by a qualified entity, (3) in which all volunteers who assist in the preparation of Federal income tax returns meet the training requirements prescribed by the Secretary, and (4) that uses a quality review process which reviews 100 percent of all returns. Qualified entity means any entity that (1) is an eligible organization (as defined), (2) is in compliance with Federal tax filing and payment requirements, (3) is not debarred or suspended from Federal contracts, grants, or cooperative agreements, and (4) agrees to provide documentation to substantiate any matching funds provided under the VITA grant program. Eligible organization means (1) an institution of higher education described in section 102 (other than subsection (a)(1)(C) thereof) of the Higher Education Act of 1965, as in effect on the date of enactment, and that has not been disqualified from participating in a program under Title IV of such Act, (2) an exempt organization described in Code section 501(c), (3) a local government agency, including a county or municipal government agency, and an Indian tribe, as defined in section 4(13) of the Native American Housing Assistance and Self-Determination Act of 1996 ("Act"), including any tribally designated housing entity (as defined in such Act), tribal subsidiary, subdivision, or other wholly owned tribal entity, or (4) a local, State, regional, or national coalition (with one lead organization that meets the eligibility requirements described above acting as the applicant organization). If no eligible organization is available to assist the targeted population or community, the eligible organization includes a State government agency and a Cooperative Extension Service office.

Applicable taxpayer means a taxpayer who has income for the taxable year that does not exceed an amount equal to the completed phaseout amount under section 32(b) for a married couple filing a joint return with three or more qualifying children, as de-

termined in a revenue procedure or other published guidance.[85] Underserved population includes populations of persons with disabilities, persons with limited English proficiency, Native Americans, individuals living in rural areas, members of the Armed Forces and their spouses, and the elderly.

The provision allows the IRS to use mass communications and other means to promote the benefits and encourage the use of the program. The Secretary can provide taxpayers information regarding qualified return preparation programs receiving grants and those programs are encouraged to advise taxpayers of the availability of, and eligibility requirements for receiving, advice and assistance from local or regional low-income taxpayer clinics. The programs are also encouraged to provide taxpayers information regarding the location and contact information for the low-income taxpayer clinics.

EFFECTIVE DATE

The provision is effective on the date of enactment.

2. PROVISION OF INFORMATION REGARDING LOW-INCOME TAXPAYER CLINICS (SEC. 1402 OF THE BILL AND SEC. 7526 OF THE CODE)

PRESENT LAW

The Code provides that the Secretary is authorized to provide up to $6 million per year in matching grants to certain qualified low-income taxpayer clinics.[86] Eligible clinics are those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language. No clinic can receive more than $100,000 per year.

A qualified low-income taxpayer clinic includes (1) a clinical program at an accredited law, business, or accounting school, in which students represent low-income taxpayers, or (2) an organization exempt from tax under Code section 501(c) that either represents low-income taxpayers or provides referral to qualified representatives. A low-income taxpayer is an individual whose income does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the OMB.

The Department of the Treasury prohibits its officers and employees from referring taxpayers to qualified low-income taxpayer clinics for advice and assistance.[87]

REASONS FOR CHANGE

The Committee believes that qualified low-income taxpayer clinics contribute to compliance with the tax laws by providing representation to taxpayers who might otherwise be uncertain about their rights and obligations under the law and lack the means to secure adequate representation. Accordingly, the Committee believes that officers and employees of the Department of the Treasury should be permitted to inform taxpayers of the existence of these clinics and refer taxpayers to such clinics for assistance.

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[85] For 2019, the amount is $55,952. Rev. Proc. 2018–57, 2018–49, I.R.B. 827, 832, December 3, 2018.

[86] Sec. 7526.

[87] 5 C.F.R. sec. 3101.106(a).

EXPLANATION OF PROVISION

The provision allows officers and employees of the Department of the Treasury to advise taxpayers of the availability of, and eligibility requirements for receiving, advice and assistance from qualified low-income taxpayer clinics that receive funding under the Code, and to provide location and contact information for such clinics.

EFFECTIVE DATE

The provision is effective on the date of enactment.

3. NOTICE FROM IRS REGARDING CLOSURE OF TAXPAYER ASSISTANCE CENTERS (SEC. 1403 OF THE BILL)

PRESENT LAW

The IRS operates Taxpayer Assistance Centers ("TAC") around the country to provide face-to-face assistance with preparing tax returns and understanding tax laws.

The IRS is not currently required to publish information to the public or give notice to Congress before closing a TAC.

REASONS FOR CHANGE

The Committee is concerned about taxpayers who are unaware of the scheduled closure of a local TAC and may need to access in-person services. The Committee intends that the IRS provide information about TAC closures in advance both to the public and to Congress. The information should also include alternative sources of assistance for taxpayers.

EXPLANATION OF PROVISION

The provision requires the IRS to publish (including by non-electronic means such as local press and other media), 90 days in advance, a notice containing information identifying the TAC proposed for closure, the date of the proposed closure, and the relevant alternative sources of assistance that may be utilized by affected taxpayers. The provision also requires the IRS to provide, 90 days in advance, a report to Congress containing the information in the notice, the reasons for a proposed closure of the TAC, and other information as the Secretary may find appropriate.

EFFECTIVE DATE

The provision is effective on the date of enactment.

4. RULES FOR SEIZURE AND SALE OF PERISHABLE GOODS RESTRICTED TO ONLY PERISHABLE GOODS (SEC. 1404 OF THE BILL AND SEC. 6336 OF THE CODE)

PRESENT LAW

Under the Code, if it is determined that any tangible property seized to satisfy unpaid taxes (1) is liable to perish, (2) is liable to become greatly reduced in price or value by keeping, or (3) cannot be kept without great expense, the property may be sold after it has been appraised and the owner has been given an opportunity

to pay the appraised value or furnish bond for payment.[88] The general procedures governing the sale of seized property that are set forth in the Code (e.g., requiring 10-day notice before sale and the determination of a minimum bid) are not applicable to sales of perishables.[89] Instead, the streamlined procedures referred to above apply to the sale of perishable goods.[90]

REASONS FOR CHANGE

The Committee believes that the IRS has in several instances incorrectly invoked the streamlined procedures described above. To prevent future abuses, the Committee believes that it is necessary to limit the streamlined procedures to goods that are liable to perish.

EXPLANATION OF PROVISION

The provision limits the property that may be sold pursuant to the streamlined procedures to property that is liable to perish.

EFFECTIVE DATE

The provision applies to property seized after the date of enactment.

5. WHISTLEBLOWER REFORMS (SEC. 1405 OF THE BILL AND SEC. 6103 OF THE CODE)

PRESENT LAW

In general

Under section 7623, individuals who submit information leading to detection of underpayment of tax or to detection, trial, and punishment of persons guilty of violating internal revenue laws, may file a claim for an award of 15 to 30 percent of recovered funds resulting from such action.

Disclosure rules for whistleblowers

Section 6103 provides a general rule of confidentiality for returns and return information: "returns and return information shall be confidential and except as authorized by this Title . . . [none of the specified recipients] shall disclose any return or return information obtained by him . . . ."[91] One of the exceptions to the general rule of confidentiality permits the IRS to make investigative disclosures of return information to third parties. The disclosures, subject to the conditions provided in regulations, are to be made to the extent necessary to obtain information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, the amount to be collected, or with respect to the enforcement of any provision of Title 26.[92] The third party recipient of the return information furnished during an investigative disclosure is not subject to the general rule of confidentiality provided by section 6103.

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[88] Sec. 6336.
[89] Sec. 6335.
[90] Sec. 6336; Treas. Reg. sec. 301.6336–1.
[91] Sec. 6103(a).
[92] Treas. Reg. sec. 301.6103(k)(6)–1.

There is no provision of section 6103 to provide whistleblowers with status updates regarding what the IRS has done with the information provided by the whistleblower. Such status information would be the return information of the taxpayer being audited/investigated for additional tax liability.

A taxpayer can file or sue for civil damages for the unauthorized disclosure and/or inspection of returns and return information.[93] In addition, criminal penalties apply for the willful unauthorized disclosure or inspection of returns and return information.[94]

Protection against retaliation

Though other statutes such as the False Claims Act[95] currently protect some individuals from employer retaliation, those who file claims under the Code are not explicitly afforded these same protections.

REASONS FOR CHANGE

The Committee believes that modifications to the disclosure rules are necessary to improve communication with IRS whistleblowers so that they are appropriately informed of their claim and future whistleblowers are not discouraged from coming forward. "The Committee also believes it is important that in appropriate cases the IRS fully utilize the whistleblower as a resource during the course of an investigation." The Committee further believes it is important to ensure that any additional taxpayer information received by whistleblowers under this provision is fully protected. The Committee additionally believes that by affording whistleblowers protections against retaliation from employers an employee will be more willing to come forward to report instances of tax shelters and fraud.

EXPLANATION OF PROVISION

This provision amends section 6103 to: (1) allow the IRS to exchange information with whistleblowers to the extent disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax liability or the amount to be collected with respect to the enforcement of any other provision of the Code; and (2) require the Secretary to notify the whistleblower as to the status of their case not later than 60 days after: (i) the case has been referred for an audit or examination; and (ii) the taxpayer makes a payment of tax with respect to the tax liability to which the information provided by the whistleblower relates. Subject to such requirements and conditions prescribed by the Secretary, upon written request by the whistleblower and so long as the disclosure would not seriously impair Federal tax administration, the Secretary is to provide information on the status and stage of any investigation, and in the case of a determination of the amount of any award, the reasons for such determination. To ensure taxpayer information is protected, whistleblowers receiving information under this provision are subject to

[93] Sec.7431.
[94] Sec.7213 and 7213A.
[95] 31 U.S.C. sec. 3730(h)(2).

the general rule of confidentiality and criminal penalties for unauthorized disclosure of taxpayer information.

The provision adds to section 7623, anti-retaliation whistleblower protections for employees. A person who alleges discharge or other reprisal by any person in violation of these protections may file a complaint with the Secretary of Labor (within 180 days after the date on which the violation occurs), and if the Secretary of Labor has not issued a final decision on such complaint within 180 days (and the delay is not due to the bad faith of the claimant), an action may be brought in the appropriate district court. The remedies provided are consistent with those currently available under the False Claims Act, including compensatory damages or reinstatement, 200 percent of back pay and all lost benefits, with interest, and compensation for other special damages including litigation costs, expert witness fees, and reasonable attorney fees.

EFFECTIVE DATE

The modifications made to the disclosure rules apply to disclosures made after the date of enactment. The protections from retaliation are effective on the date of enactment.

6. CUSTOMER SERVICE INFORMATION (SEC. 1406 OF THE BILL)

PRESENT LAW

The Code provides that the Commissioner has such duties and powers as prescribed by the Secretary.[96] Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes. In executing these duties, the Commissioner depends upon strategic plans that prioritize goals and manage IRS's resources. In the current strategic plan, empowering and enabling all taxpayers to meet their tax obligations is identified as one of the IRS's six strategic goals.[97]

REASONS FOR CHANGE

The Committee believes that it is important for the IRS to provide quality customer service to taxpayers whose identities have been stolen and used to commit tax-related fraud. The IRS initially established the Identity Protection Specialized Unit ("IPSU") to assist victims of identity theft, but taxpayers also were referred to other operating units of the IRS to deal with various aspects of their cases.[98] The IRS then established the Identity Theft Victim Assistance ("IDTVA") organization, which is staffed with specially trained employees who are able to assess each case, identify issues, and assist the taxpayer in getting the correct return filed, refunds issued, etc.[99] In addition to these measures, the Committee believes providing information to the taxpayer about common tax

[96] Sec. 7803(a).

[97] *See Internal Revenue Service Strategic Plan FY2018—2022,* Publication 3744, available at https://www.irs.gov/pub/irs-pdf/p3744.pdf.

[98] Treasury Inspector General for Tax Administration, Department of the Treasury, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (TIGTA 2012–40–050), May 2012.

[99] A description of the services provided by the IDTVA organization is available at https://www.irs.gov/uac/Newsroom/IRS-Identity-Theft-Victim-Assistance-How-It-Works.

scams, directions on where and how to report such activity, and tips on how to protect against identity theft and tax scams will improve customer service to taxpayers affected by tax-related identity theft.

EXPLANATION OF PROVISION

The provision requires the IRS to provide the following information over the telephone, while taxpayers are on hold with the IRS's call center: information about common tax scams, direction to the taxpayer on where and how to report such activity, and tips on how to protect against identity theft and tax scams.

EFFECTIVE DATE

The provision is effective on the date of enactment.

7. MISDIRECTED TAX REFUND DEPOSITS (SEC. 1407 OF THE BILL AND SEC. 6402 OF THE CODE)

PRESENT LAW

The Internal Revenue Manual ("IRM") defines an erroneous refund as the receipt of any money from the IRS to which the recipient is not entitled. The IRM provides procedures for IRS employees to identify and recover such erroneous refunds.[100] In addition, the IRS website provides information to taxpayers who wish to return an erroneous refund that was issued to them, either by paper check or direct deposit.[101]

The Code provides that any tax refunds which are erroneously made may be recovered by civil action brought in the name of the United States.[102] Recovery of an erroneous refund by civil action is allowed if the action is begun within two years after the refund is made, or five years if it appears that any part of the refund was induced by fraud or misrepresentation.[103]

REASONS FOR CHANGE

The Committee believes that a comprehensive customer service strategy includes allowing taxpayers to report instances in which refunds made by electronic funds transfer are made incorrectly, recovering misdirected payments, and delivering them to the correct accounts of taxpayers.

EXPLANATION OF PROVISION

The provision requires the Secretary to prescribe regulations within six months of the date of enactment of this Act to establish procedures to allow taxpayers to report instances in which a refund made by the Secretary by electronic funds transfer was not transferred to the account of the taxpayer, to coordinate with financial institutions to identify and recover these payments, and to deliver refunds to the correct accounts of taxpayers.

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[100] Internal Revenue Service, Internal Revenue Manual, *Erroneous Refunds,* Ch. 21.4, sec. 21.4.5.2 (October 9, 2015).

[101] Internal Revenue Service, *Topic Number 161—Returning an Erroneous Refund—Paper Check or Direct Deposit,* last updated January 28, 2019, available at https://www.irs.gov/taxtopics/tc161.

[102] Sec. 7405.

[103] Sec. 6532(b).

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE II—21ST CENTURY IRS

A. CYBERSECURITY AND IDENTITY PROTECTION

1. PUBLIC-PRIVATE PARTNERSHIP TO ADDRESS IDENTITY THEFT TAX REFUND FRAUD (SEC. 2001 OF THE BILL)

PRESENT LAW

The Security Summit, formed in 2015, is a partnership of the IRS, State tax agencies, and the private-sector tax industry to address tax refund fraud caused by identity theft. In 2016, the Security Summit group members identified and agreed to share more than 20 data components relating to Federal and State returns to improve fraud detection and prevention. For example, group members are sharing computer device identification data tied to the return's origin, as well as the improper or repetitive use of the numbers that identify the internet address from where the return originates.[104] Tax software providers agreed to enhance identity requirements and strengthen validation procedures for new and returning customers to protect their accounts from theft. Along with the IRS, 40 State departments of revenue, and 21 tax industry members have signed onto a Memorandum of Understanding regarding roles, responsibilities and information sharing pathways among the IRS, States and industry.[105] In 2017, the IRS reported there was a 40 percent decline in the number of taxpayers reporting to the IRS that they are victims of identity theft, attributing the decline to the initiatives of the Security Summit.[106]

REASONS FOR CHANGE

The Committee believes the Security Summit has been a successful and productive venue for governmental and private organizations to work together to address the growing problem of identity theft tax refund fraud. The Committee is encouraged by the proactive steps that the IRS has taken to address this issue and wants to ensure that these efforts continue going forward.

EXPLANATION OF PROVISION

The provision requires the Secretary (or the Secretary's delegate) to work collaboratively with the public and private sectors to protect taxpayers from identity theft tax refund fraud.

EFFECTIVE DATE

The provision is effective on the date of enactment.

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[104] Internal Revenue Service, *2016 Security Summit: Protecting Taxpayers from Identity Theft Tax Refund Fraud* (June 2016) p. 3, available at https://www.irs.gov/pub/newsroom/6_2016_security_summit_report.pdf.

[105] *Ibid.*

[106] Internal Revenue Service, IR–2018–21, *Key IRS Identity Theft Indicators Continue Dramatic Decline in 2017; Security Summit Marks 2017 Progress Against Identity Theft* (February 8, 2018).

2. RECOMMENDATIONS OF ELECTRONIC TAX ADMINISTRATION ADVISORY COMMITTEE REGARDING IDENTITY THEFT REFUND FRAUD (SEC. 2002 OF THE BILL)

PRESENT LAW

RRA98 authorized the Electronic Tax Administration Advisory Committee ("ETAAC"). ETAAC was intended to provide input to the IRS on electronic tax administration. ETAAC's responsibilities involve researching, analyzing, and making recommendations on a variety of electronic tax administration issues. Pursuant to RRA98, ETAAC reports to Congress annually concerning:

- IRS's progress on reaching its goal to electronically receive 80 percent of tax and information returns;
- Legislative changes assisting the IRS in meeting the 80 percent goal;
- Status of the IRS's strategic plan for electronic tax administration; and
- Effects of e-filing tax and information returns on small businesses and the self-employed.

ETAAC members come from State departments of revenue, large tax preparation companies, solo tax practitioners, tax software companies, financial services industry and low income and consumer advocacy groups.[107]

REASONS FOR CHANGE

ETAAC's focus on electronic tax administration issues makes it a suitable entity to examine and make recommendations regarding methods to address identity theft and refund fraud after evaluating various stakeholder viewpoints. ETAAC already has amended its charter to focus on the issue of identity theft and refund fraud. This provision codifies the recent changes to ETAAC's charter and ensures that ETAAC will continue to examine this issue going forward. The Committee also finds ETAAC's annual reports to Congress, which include recommendations to improve the work of the Security Summit, to be valuable sources of information and would like to ensure that this work continues.

EXPLANATION OF PROVISION

In addition to the requirements under present law, the provision requires ETAAC to study (including through organized public forums) and make recommendations to the Secretary regarding methods to prevent identity theft and refund fraud.

EFFECTIVE DATE

The provision is effective on the date of enactment.

[107] Electronic Tax Administration Advisory Committee, Publication 3415, *Annual Report to Congress* (June 2018), Appendix B, available at https://www.irs.gov/pub/irs-pdf/p3415.pdf.

3. INFORMATION SHARING AND ANALYSIS CENTER (SEC. 2003 OF THE BILL AND SEC. 6103 OF THE CODE)

PRESENT LAW

Information Sharing and Analysis Center

The Security Summit, formed in 2015, is a partnership of the IRS, State tax agencies, and the private-sector tax industry to address tax refund fraud caused by identity theft. In 2016, the Security Summit created an Identity Theft Tax Refund Fraud Information Sharing and Analysis Center ("ISAC").[108] The ISAC is a secure, web-based venue for States, industry and the IRS to share and exchange information. The ISAC enables the IRS and the States to work together with external third parties to serve as an early warning system for tax refund fraud, identity theft schemes, and cybersecurity issues. A third-party contractor hosts, maintains, and facilitates the web-based leads reporting and information sharing process for the ISAC.

Confidentiality and disclosure of return information

As a general rule, returns and return information are confidential and cannot be disclosed unless authorized by the Code.[109] The definition of return information is very broad and generally includes any information received or collected by the IRS with respect to liability under the Code of any person for any tax, penalty, interest or offense. The term "return information" includes, among other items:

> a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense . . . .[110]

There are several exceptions to the general rule of confidentiality. Such exceptions include provisions to permit disclosures to State tax administration officials, for IRS employees and officers to make investigative disclosures, and rules to allow one authorized party to disclose to another authorized party with the permission of the Commissioner.[111]

The IRS exchanges confidential information with State tax agencies under the authority of section 6103(d). The disclosures are made pursuant to written request from the head of the State tax agency, which designates the State tax officials who can receive the

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[108] Internal Revenue Service, *2016 Security Summit: Protecting Taxpayers from Identity Theft Tax Refund Fraud* (June 2016), available at https://www.irs.gov/pub/newsroom/6_2016_security_summit_report.pdf.sec.

[109] Sec. 6103(a).

[110] Sec. 6103(b)(2)(A).

[111] Sec. 6103(d) (disclosures to States), 6103(k)(6)(investigative disclosures) and the Treasury regulations under sec. 6103(p)(2)(B).

information. The information can only be used for State tax purposes, not for general State civil or criminal law enforcement. The State officials can redisclose the information to other officers and employees of the State tax agency, the agency's legal representative, or the agency's contractors (but only for State tax administration purposes). The IRS uses this authority to alert State tax administration officials to tax refund fraud schemes.

IRS officers and employees may disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected, or with respect to the enforcement of any other provision of Title 26. Such disclosures are to be made only in such situations and under such conditions as the Secretary may prescribe by regulation.[112] This provision generally cannot be used to provide confidential return information on an industry-wide basis to alert return preparers to potential fraud schemes.

Under the Treasury regulations, returns or return information that have been obtained by a Federal, State, or local agency, or its agents or contractors, in accordance with section 6103 (the first recipient) may be disclosed by the first recipient to another recipient authorized to receive such returns or return information under section 6103 (the second recipient).[113] The disclosure must be approved by the Commissioner. The second recipient may receive only such returns or return information as authorized by the provision of section 6103 applicable to such recipient and only for a purpose authorized by and subject to any conditions imposed by section 6103, including applicable safeguards.

Preparer disclosure penalties

The Code provides for a civil penalty for a tax return preparer who (i) discloses any information furnished to the preparer for, or in connection with, the preparation of such return or (ii) uses such information for any purpose other than to prepare or assist in preparing any such return.[114] There is a corresponding criminal penalty under section 7216 of the Code for knowing or reckless conduct. The same exceptions from the imposition of the criminal penalty apply for purposes of the civil penalty. In general, the penalty does not apply for disclosures permitted by the Code or pursuant to an order of a court. Further, the penalty does not apply to the use of information in the preparation of, or in connection with the preparation of State and local tax returns and declarations of estimated tax of the person to whom the information relates. The Code also permits the Secretary to provide additional exceptions through regulations. The Secretary has prescribed by regulation the circumstances not involving tax preparation in which disclosure and use of a taxpayer's information by a tax return preparer is permitted.[115]

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[112] Sec. 6103(k)(6); Treas. Reg. sec. 301.6103(k)(6)–1.
[113] Treas. Reg. sec. 301.6103(p)(2)(B)–1.
[114] Sec. 6713.
[115] Treas. Reg. secs. 301.7216–1, 301.7216–2 and 301.7216–3.

Penalties for the unauthorized disclosure or inspection of return information

The unauthorized disclosure of a return or return information is a felony punishable by fine of up to $5,000, five years imprisonment or both. Unauthorized inspection is a misdemeanor, punishable by a fine of up to $1,000, one year imprisonment, or both.

REASONS FOR CHANGE

As the profitability and ease of identity theft grows, the threat to the tax system from fraudulent tax refund filings increases. While the IRS has traditionally been more reactionary to external threats, the Committee is encouraged to see the IRS look for new and alternative ways to combat identity theft tax refund fraud, particularly through its participation in the ISAC pilot. The Committee believes there is a need for all parts of the tax system, including the IRS, State tax administrators, and return preparers, to work proactively together to combat identity theft tax refund fraud. To be effective in this collaboration, stakeholders with the ability to guard the tax system need to be able to receive the necessary information about potential risks quickly. Therefore, the Committee believes it is appropriate to provide a narrowly tailored exception to the general rules of confidentiality to facilitate alerts of potential tax refund fraud schemes and cyber security threats to the IRS.

EXPLANATION OF PROVISION

ISAC participation and performance metrics

The provision provides that the Secretary (or the Secretary's delegate) may participate in an information sharing and analysis center. The purpose of such participation is to centralize, standardize and enhance data compilation and analysis to facilitate sharing actionable data and information with respect to identity theft tax refund fraud. The provision requires the Secretary (or the Secretary's delegate) to develop metrics for measuring the success of such center in detecting and preventing identity theft tax refund fraud.

Disclosure of return information to certain ISAC participants

In general

The provision authorizes the disclosure of specified return information to ISAC participants who have entered into a written information sharing agreement with the Secretary. Under such procedures and subject to such conditions as the Secretary may prescribe, the Secretary may disclose specified return information to specified ISAC participants if such disclosure is in furtherance of effective Federal tax administration relating to the following: (1) the detection or prevention of identity theft tax refund fraud; (2) validation of taxpayer identity; (3) authentication of taxpayer returns; or (4) the detection or prevention of cybersecurity threats to the IRS.

Terminology

Specified ISAC participant

The term "specified ISAC participant" means any person designated by the Secretary as having primary responsibility for a function performed by the ISAC and any return preparer (or other person) subject to section 7216 and who is a participant in the ISAC. A person is only a specified ISAC participant if such person has entered into a written information sharing agreement with the Secretary. The information sharing agreement must set forth the terms and conditions for the disclosure of information to such person, including the requirements imposed on such person for the protection and safeguarding of such information. The information sharing agreement must require that recipients of return information under the provision are required to affirmatively report to TIGTA any unauthorized access or disclosure of information and any breaches of any system holding the information.

Specified return information

For purposes of the provision, the term "specified return information" means, in the case of a return filed electronically, which is in connection with a case of potential identity theft tax refund fraud, return information related to the electronic filing characteristics of such return. Such characteristics include: internet protocol address, device identification, email domain name, speed of completion, method of authentication, refund method, and such other return information relating to the electronic filing characteristics of such return as the Secretary may identify. In addition, with respect to a return prepared by a tax return preparer in connection with a case of potential identity theft refund fraud, "specified return information" also includes identifying information with respect to such tax return preparer, including the preparer taxpayer identification number ("PTIN") and electronic filer identification number ("EFIN") of such preparer.

With respect to a return for which identity theft refund fraud has been confirmed by the Secretary (pursuant to such procedures as the Secretary may provide), "specified return information" also includes the name and taxpayer identification number of the taxpayer as it appears on the return, and any bank account and routing information provided for making a refund in connection with such return.

Finally, in the case of any cybersecurity threat to the IRS, information similar to that associated with cases of potential identity theft refund fraud (e.g., electronic characteristics and preparer identifying information) are considered specified return information with respect to such threat.

Restriction on use of disclosed information

Any return information received by a specified ISAC participant under the provision is to be used only for the purposes of and to the extent necessary in (1) performing the function the person is designated to perform with respect to the ISAC, (2) facilitating authorized disclosures to return preparers who are specified ISAC participants, and (3) facilitating disclosures authorized under section 6103(d) to State tax authorities who are participants in the

ISAC. Return information received by specified ISAC participants who are return preparers is treated for purposes of section 7216 as information furnished to such person for, or in connection with, the preparation of a return of tax.

Data protection, safeguards, penalties

As noted above, to be a specified ISAC participant, the person must enter into an information sharing agreement that includes, among other responsibilities, requirements for the protection and safeguarding of information received under the provision. The return information disclosed under the provision is subject to such protections and safeguards as the Secretary may require by regulations, other guidance, or written information sharing agreement. Recipients of return information under the provision are subject to civil and criminal penalties for the unauthorized disclosure or inspection of returns or return information.

EFFECTIVE DATE

The provision is generally effective on the date of enactment. The disclosure provisions are effective for disclosures made on or after the date of enactment.

4. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS (SEC. 2004 OF THE BILL AND SEC. 6103 OF THE CODE)

PRESENT LAW

Section 6103 permits the disclosure of returns and return information to State agencies, as well as to other Federal agencies for specified purposes. Section 6103(p)(4) requires, as a condition of receiving returns and return information, that State agencies (and others) provide safeguards as prescribed by the Secretary of the Treasury by regulation that are necessary or appropriate to protect the confidentiality of returns or return information.[116] It also requires that a report be furnished to the Secretary at such time and containing such information as prescribed by the Secretary regarding the procedures established and utilized for ensuring the confidentiality of returns and return information.[117] After an administrative review, the Secretary may take such actions as are necessary to ensure these requirements are met, including the refusal to disclose returns and return information.[118]

Under present law, employees of a State tax agency may disclose returns and return information to contractors for tax administration purposes.[119] These disclosures can be made only to the extent necessary to procure contractually equipment, other property, or services, related to tax administration.[120] The contractors can make redisclosures of returns and return information to their em-

[116] Sec. 6103(p)(4)(D).
[117] Sec. 6103(p)(4)(E).
[118] Sec. 6103(p)(4) (flush language) and (7); Treas. Reg. sec. 301.6103(p)(7)–1.
[119] Sec. 6103(n) and Treas. Reg. sec. 301.6103(n)–1(a). "Tax administration" includes "the administration, management, conduct, direction, and supervision of the execution and application of internal revenue laws or related statutes (or equivalent laws and statutes of a State). . ." Sec. 6103(b)(4).
[120] Treas. Reg. sec. 301.6013(n)–1(a). Such services include the processing, storage, transmission or reproduction of such returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services for purposes of tax administration.

ployees as necessary to accomplish the tax administration purposes of the contract, but only to contractor personnel whose duties require disclosure.[121] Treasury regulations prohibit redisclosure to anyone other than contractor personnel without the written approval of the IRS.[122]

By regulation, all contracts must provide that the contractor will comply with all applicable restrictions and conditions for protecting confidentiality prescribed by regulation, published rules or procedures, or written communication to the contractor.[123] Failure to comply with such restrictions or conditions may cause the IRS to terminate or suspend the duties under the contract or the disclosures of returns and return information to the contractor.[124] In addition, the IRS can suspend disclosures to the State tax agency until the IRS determines that the conditions are or will be satisfied.[125] The IRS may take such other actions as are deemed necessary to ensure that such conditions or requirements are or will be satisfied.[126]

REASONS FOR CHANGE

The Committee notes the increasing use of contractors by government agencies to perform the work of the government. In the Committee's view, the IRS has insufficient resources to monitor the compliance of every contractor in addition to its other duties. Further, the Committee finds that it is appropriate to require that Federal, State, and local agency recipients of tax information monitor and certify that their contractors and other agents have in place adequate safeguards to protect this information.

EXPLANATION OF PROVISION

The provision requires that a State, local, or Federal agency conduct on-site reviews every three years of all of its contractors or other agents receiving Federal returns and return information. If the duration of the contract or agreement is less than three years, a review is required at the mid-point of the contract. The purpose of the review is to assess the contractor's efforts to safeguard Federal returns and return information. This review is intended to cover secure storage, restricting access, computer security, and other safeguards deemed appropriate by the Secretary. Under the provision, the State, local, or Federal agency is required to submit a report of its findings to the IRS and certify annually that such contractors and other agents are in compliance with the requirements to safeguard the confidentiality of Federal returns and return information. The certification is required to include the name and address of each contractor or other agent with the agency, the duration of the contract, and a description of the contract or agreement with the State, local, or Federal agency.

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[121] Treas. Reg. sec. 301.6103(n)–1(a) and (b). A disclosure is necessary if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically accomplished without such disclosure. Treas. Reg. sec. 301.6103(n)–1(b). The regulations limit the quantity of information to that needed to perform the contract.

[122] Treas. Reg. sec. 301.6103(n)–1(a).

[123] Treas. Reg. sec. 301.6103(n)–1(e)(3).

[124] Treas. Reg. sec. 301.6103(n)–1(e)(4).

[125] *Ibid.*

[126] *Ibid.*

The provision does not apply to contracts for purposes of Federal tax administration. The provision does not alter or affect in any way the right of the IRS to conduct safeguard reviews of State, local, or Federal agency contractors or other agents. It also does not affect the right of the IRS to initially approve the safeguard language in the contract or agreement and the safeguards in place prior to any disclosures made in connection with such contracts or agreements.

EFFECTIVE DATE

The provision is effective for disclosures made after December 31, 2022.

5. REPORT ON ELECTRONIC PAYMENTS (SEC. 2005 OF THE BILL)

PRESENT LAW

The Secretary is not currently required by Congress to examine expansion of electronic fund transfers.

REASONS FOR CHANGE

The Committee is interested in creating secure, efficient, and innovative ways for taxpayers to receive their federal income tax refunds electronically. The Committee believes that the report will be helpful in accomplishing these goals.

EXPLANATION OF PROVISION

Not later than two years after the date of the enactment, the Secretary, or the Secretary's delegate, in coordination with the Bureau of Fiscal Service and the IRS, and in consultation with private sector financial institutions, is required to submit a written report to Congress describing how the IRS can utilize new payment platforms to increase the number of tax refunds paid by electronic funds transfer. The report is required to consider the interests of reducing identity theft tax refund fraud, reducing the IRS's costs in delivering tax refunds, the costs and any associated fees charged to taxpayers (including monthly and point-of-service fees) to access their tax refunds, the impact on individuals who do not have access to financial accounts or institutions, and ensuring payments are made to accounts that comply with the Bank Secrecy Act[127] and the USA PATRIOT Act of 2001.[128] The report is required to include legislative recommendations necessary to accomplish these goals.

EFFECTIVE DATE

The provision is effective on the date of enactment.

6. IDENTITY PROTECTION PERSONAL IDENTIFICATION NUMBERS (SEC. 2006 OF THE BILL)

PRESENT LAW

In 2011, the IRS launched a pilot program to test the Identity Protection Personal Identification Number ("IP PIN"). The IP PIN is a unique six-digit identifier that authenticates a return filer as

[127] 31 U.S.C. secs. 5311–5332.
[128] Pub. L. No. 107–56.

the legitimate taxpayer at the time the return is filed. The IP PIN allows taxpayers affected by identity theft to avoid delays in filing returns and receiving refunds. The IRS verifies the presence of the IP PIN at the time of filing, and rejects returns associated with a taxpayer's account where an IP PIN has been assigned but is missing. For the 2018 filing season, the IRS issued IP PINs to almost 3.5 million taxpayers who had identity theft markers on their tax accounts.[129]

In January 2014, the IRS also started a limited pilot program under which taxpayers who obtained an electronic filing PIN through an IRS authentication website and live in the District of Columbia, Florida, or Georgia were provided an opportunity to obtain an IP PIN.[130] These locations were selected because they had the highest per capita rate of tax-related identity theft when the initiative was piloted. Residents in these places do not need to be identity theft victims to participate. Recently, the IRS expanded the program to allow taxpayer who filed their federal tax return last year as a resident of Michigan, California, Maryland, Nevada, Delaware, Illinois, or Rhode Island to be eligible for an IP PIN.

REASONS FOR CHANGE

The Committee is aware that the use of an IP PIN is an effective means of preventing identity theft refund fraud via an electronically filed return. The Committee believes that the success of the pilot program for IP PINs warrants expansion of the program beyond the residents of the District of Columbia, Florida, and Georgia, and more recently Michigan, California, Maryland, Nevada, Delaware, Illinois, and Rhode Island, and persons who have already been subject to identity theft.

EXPLANATION OF PROVISION

Within five years of the date of enactment, the Secretary or the Secretary's delegate is required to establish a program to issue an IP PIN to any individual residing in the United States who requests one to assist the Secretary in verifying the individual's true identity. For each calendar year beginning after the date of enactment, the Secretary is required to expand the issuance of IP PINs to individuals residing in such States as the Secretary deems appropriate, provided that the total number of States served by the program continues to increase.

EFFECTIVE DATE

The provision is effective on the date of enactment.

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[129] Inspector General for Tax Administration, Department of the Treasury, *Results of the 2018 Filing Season* (TIGTA 2019–40–013), December 19, 2018, available at https://www.treasury.gov/tigta/auditreports/2019reports/201940013fr.pdf.

[130] Internal Revenue Service, *FAQs about the Identity Protection Personal Identification Number (IP PIN),* available at https://www.irs.gov/identity-theft-fraud-scams/frequently-asked-questions-about-the-identity-protection-personal-identification-number-ip-pin#q2.

7. SINGLE POINT OF CONTACT FOR TAX-RELATED IDENTITY THEFT VICTIMS (SEC. 2007 OF THE BILL)

PRESENT LAW

Tax-related identity theft generally takes one of two forms: refund fraud or employment fraud. In refund fraud, a perpetrator may obtain a taxpayer's identifying information, submit an individual income tax return using a falsified Form W–2, Wage and Tax Statement, and fraudulently claim a refund. In employment fraud, the stolen identifying information is used in order to obtain employment. The returns then filed using the stolen identity may be based on the actual wages and withholding of the identity thief. Victims of the employment fraud include the individuals whose identifying information was stolen as well as the businesses whose systems may have been breached to obtain that personal information.

The IRS describes its procedures for addressing both types of fraud in the Internal Revenue Manual.[131] The IRS initially established the Identity Protection Specialized Unit ("IPSU") to assist victims of identity theft, but taxpayers were also referred to other operating units of the IRS to deal with various aspects of their cases.[132] Subsequently reorganized and renamed the Identity Theft Victim Assistance ("IDTVA") organization, the unit is staffed with specially trained employees who are able to assess each case, identify issues, and assist the taxpayer in getting the correct return filed, refunds issued, etc.[133] The IDTVA organization's work is coordinated by the IRS's Identity Protection Program through the auspices of an oversight office within the Wage and Investment Operating Division.[134]

If a victim thinks he or she is not being properly served by the IRS or the IDTVA organization, the victim may be eligible for assistance from the TAS. In such instances, the TAS will assign a case advocate to the taxpayer's account.

REASONS FOR CHANGE

The Committee is concerned that taxpayers who are victimized by identity thieves experience delays in obtaining their tax refunds and find it difficult to work with multiple offices within the IRS. Requiring a single point of contact at the IRS to provide assistance to these victims is a common-sense measure that will simplify the resolution of cases for taxpayers. Although the IRS has shown flexibility in adapting new procedures for handling identity theft cases, the Committee believes that a single point of contact for an identity theft victim is necessary.

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[131] Internal Revenue Service, Internal Revenue Manual, *Identity Protection and Victim Assistance*, Ch. 23, sec. 25.23.1 et seq. (October 2018).

[132] Inspector General for Tax Administration, Department of the Treasury, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (TIGTA 2012–40–050), May 2012.

[133] A description of the services provided by the IDTVA organization is available at https://www.irs.gov/uac/Newsroom/IRS-Identity-Theft-Victim-Assistance-How-It-Works.

[134] Internal Revenue Service, Internal Revenue Manual, *Identity Protection and Victim Assistance*, Ch. 23, sec. 25.23.1 et seq. (October 2018).

EXPLANATION OF PROVISION

The provision requires the Secretary to establish procedures to implement a single point of contact for taxpayers adversely affected by identity theft. The single point of contact consists of a team of specially trained employees who can work across functions within the IRS to resolve problems for the victim and who are accountable for handling the case to completion. The makeup of the team may change as required to meet IRS's needs, but the procedures must ensure continuity of records and case history and may require notice to the taxpayer in appropriate instances.

EFFECTIVE DATE

The provision is effective on the date of enactment.

8. NOTIFICATION OF SUSPECTED IDENTITY THEFT (SEC. 2008 OF THE BILL AND NEW SEC. 7529 OF THE CODE)

PRESENT LAW

Section 6103 provides that returns and return information are confidential and may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to the information except as provided in the Code.[135] The definition of "return information" is very broad and includes any information gathered by the IRS with respect to a person's liability or possible liability under the Code for any tax, penalty, interest, fine, forfeiture, or other imposition or offense.[136] Thus, information gathered by the IRS in connection with an investigation of a person for a Title 26 offense, such as fraud, is the return information of the person being investigated and is subject to the confidentiality restrictions of section 6103.

As an exception to section 6103's general rule of confidentiality, the Code permits a taxpayer to receive his or her own tax return, and also can receive his or her return information if the Secretary determines that such disclosure would not seriously impair Federal tax administration.[137] With respect to fraudulent tax returns, if the victim's name and Social Security number ("SSN") are listed as either the primary or secondary taxpayer on a fraudulent return, a victim of identity theft, or a person authorized to obtain the identity theft victim's tax information, may request a redacted copy (one with some information blacked-out) of a fraudulent return that was filed and accepted by the IRS using the identity theft victim's name and SSN.[138]

In cases not involving violations of Title 26, under a Privacy Act Notice, TIGTA is allowed to disclose information to complainants, victims, or their representatives (defined to be a complainant's or victim's legal counsel or a Senator or Representative whose assistance the complainant or victim has solicited) concerning the status

[135] Sec. 6103(a).
[136] Sec. 6103(b)(2).
[137] Sec. 6103(e)(1) and (7). The Code also permits the disclosure of returns and return information to such persons or persons the taxpayer may designate, if the request meets the requirements of the Treasury regulations and if it is determined that such disclosure would not seriously impair Federal tax administration. Sec. 6103(c).
[138] See Internal Revenue Service, Instructions for Requesting Copy of Fraudulent Returns (March 18, 2019), available at https://www.irs.gov/individuals/instructions-for-requesting-copy-of-fraudulent-returns.

and/or results of an investigation or case arising from the matters of which they complained and/or of which they were a victim, including, once the investigative subject has exhausted all reasonable appeals, any action taken. Information concerning the status of the investigation or case is limited strictly to whether the investigation or case is open or closed. Information concerning the results of the investigation or case is limited strictly to whether the allegations made in the complaint were substantiated or were not substantiated and, if the subject has exhausted all reasonable appeals, any action taken.[139]

REASONS FOR CHANGE

The Committee notes that victims of identity theft are often unaware that their identity has been stolen or compromised. As a result, they are unable to take timely measures to limit damage from the theft and to secure their identity against further compromise. The Committee also notes that successful prosecution of identity thieves requires that the investigators exercise discretion in disclosing information to victims about an ongoing investigation. However, the Committee believes that victims must be provided an opportunity to safeguard their financial information and assets as soon as practicable.

The Committee is aware that the unauthorized use of the identity of an individual to obtain employment causes severe hardship for the victims of this theft, including accusations of underreporting income and the loss of income-related benefits. Accordingly, to help protect these victims, in making a determination as to whether there has been or may have been an unauthorized use of identity for purposes of notifying the victim, the IRS is required to review information obtained from both its own internal processes on data mismatches as well as the information provided to the IRS by the Social Security Administration.

EXPLANATION OF PROVISION

If the Secretary determines that there has been or may have been an unauthorized use of the identity of any individual, the provision requires the Secretary to, without jeopardizing an investigation relating to tax administration, as soon as practicable, notify the individual of such determination, and: (1) provide instructions to the individual about filing a report with law enforcement; (2) identify any steps to be taken by the individual to allow investigating law enforcement officials to access the taxpayer's personal information; (3) provide information regarding actions the individual may take to protect themselves from harm relating to the unauthorized use; and (4) offer identity protection measures to the individual, such as the use of an identity protection personal identification number.

At the time this information is provided (or, if not available at such time, as soon as practicable thereafter), the Secretary shall issue additional notifications to such individual (or such individual's designee) regarding: (1) whether an investigation has been initiated in regards to such unauthorized use; (2) whether the investigation substantiated an unauthorized use of the taxpayer's

[139] See 75 Fed. Reg. 20715 (April 20, 2010) (relating to TIGTA Office of Investigation files).

identity; and (3) whether any action has been taken with respect to the individual who committed the substantiated violation, including whether any referral has been made for criminal prosecution of such individual, and, to the extent such information is available, whether such person has been criminally charged by indictment or information.

For purposes of this provision, the unauthorized use of the identity of an individual includes the unauthorized use of the identity of the individual to obtain employment (herein "employment-related identity theft"). In making a determination as to whether there may have been an unauthorized use of the identity of an individual to obtain employment, the Secretary shall review certain information returns, as well as information provided to the IRS by the SSA, which indicates that the SSN used does not correspond with either the name on the information return or the name on the tax return reporting the income. This provision requires the Secretary to examine the statements, information returns, and tax returns described in the provision for any evidence of employment-related identity theft, regardless of whether such statements or returns are submitted electronically or on paper. The provision amends the Social Security Act to require the Commissioner of Social Security to request information described in the provision not less than annually. The provision also requires that the IRS establish procedures to ensure that income reported in connection with the unauthorized use of a taxpayer's identity is not taken into account in determining any penalty for underreporting of income by the victim of identity theft.

EFFECTIVE DATE

The provision applies to determinations made after the date that is 6 months after the date of enactment.

9. GUIDELINES FOR STOLEN IDENTITY THEFT REFUND FRAUD CASES (SEC. 2009 OF THE BILL)

PRESENT LAW

Disparate elements in the tax laws and administration are implicated in identity theft. The tax aspects of identity theft can generally occur in one of two ways. In refund fraud, a perpetrator obtains someone else's identifying information and submits an individual income tax return using the name and Social Security number of the victim, with a falsified Form W–2, Wage and Tax Statement, and fraudulently claims a refund. In other cases, the stolen identifying information is used in order to obtain employment; the returns then filed by the persons employed using the stolen identity may be based on the actual wages and withholding. Victims of the fraud include the individuals whose identifying information was stolen as well as the businesses whose systems may have been breached to obtain that personal information.

The IRS describes its procedures for addressing both types of fraud in its manual. Its work is coordinated by the IRS's Identity Protection Program through the auspices of an oversight office.[140]

[140] Internal Revenue Service, Internal Revenue Manual, *Identity Protection and Victim Assistance,* Ch. 23, sec. 25.23.1 et seq. (October 2018).

In the 2014 Annual Report to Congress, the NTA included a review of fraudulent refund claims that included the theft of a taxpayer's identity.[141] The review found that such cases involved multiple issues requiring coordination among several business units of the IRS and took approximately six months to resolve. Identity theft victims were required to deal with multiple persons within the IRS to resolve the issues, either because a case involved multiple business units or was transferred among multiple employees within a business unit.

REASONS FOR CHANGE

As the profitability and ease of identity theft grows, the threat to the tax system from fraudulent tax refund filings increases. The Committee believes there is a need to reduce the administrative burden on victims of tax-related identity theft, even as the IRS works proactively to combat such fraud.

EXPLANATION OF PROVISION

The provision requires the Secretary (or the Secretary's delegate), in consultation with the NTA, to develop and implement publicly available casework guidelines for the handling of refund fraud cases that would have the effect of reducing the administrative burdens on victims of identity theft. The guidelines may address both procedures and metrics for determining whether the procedures are successfully implemented. Among the issues to be considered are the standards for opening, assigning, reassigning or closing a case; the average length of time in which a case with an identity theft issue should be resolved; the average length of time a victim entitled to a tax refund may have to wait to receive such refund; and the number of IRS offices and employees with whom a victim should interact to resolve a case.

EFFECTIVE DATE

The provision is effective on the date of enactment, with guidelines to be implemented within one year of the date of enactment.

10. INCREASED PENALTY FOR IMPROPER DISCLOSURE OR USE OF INFORMATION BY PREPARERS OF RETURNS (SEC. 2010 OF THE BILL AND SEC. 6713 OF THE CODE)

PRESENT LAW

The Code provides both civil and criminal penalties for a tax return preparer who discloses any information furnished to the preparer for, or in connection with, the preparation of such return or uses such information for any purpose other than to prepare or assist in preparing, any such return. The civil penalty is $250 for each unauthorized disclosure or use up to $10,000 per calendar year.[142] The corresponding criminal penalty under section 7216 provides that knowing or reckless conduct is a misdemeanor, sub-

[141] National Taxpayer Advocate, *"Identity Theft Case Review Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014,"* 2014 Annual Report to Congress, available at http://www.taxpayeradvocate.irs.gov/reports-to-congress/2014-annual-report-to-congress/research-studies.

[142] Sec. 6713.

ject to a fine up to $1,000, one year of imprisonment, or both, together with the costs of prosecution.

Section 6103(b)(6) defines "taxpayer identity" as the name of the person with respect to whom a return is filed, his mailing address, his taxpayer identifying number or a combination thereof.

REASONS FOR CHANGE

The Committee believes that taxpayer confidence in the trustworthiness of tax return preparers is an important element in tax administration. Those who are entrusted with the sensitive personal data of taxpayers should be held to a high standard, and violation of that trust when a return preparer uses or discloses a client's return information should be punished accordingly. The Committee does not believe that the current civil or criminal penalties adequately punishes the breach of trust involved in such disclosure.

EXPLANATION OF PROVISION

The provision increases the civil penalty on the unauthorized disclosure or use of information by tax return preparers from $250 to $1,000 for cases in which the disclosure or use is made in connection with a crime relating to the misappropriation of another person's taxpayer identity ("taxpayer identity theft"). The provision also increases the calendar year limitation from $10,000 to $50,000. The calendar year limitation is applied separately with respect to disclosures or uses made in connection with taxpayer identity theft.

The provision also increases the criminal penalty for knowing or reckless conduct to $100,000 in the case of disclosures or uses in connection with taxpayer identity theft.

EFFECTIVE DATE

The provision applies to disclosures or uses on or after the date of enactment.

B. Development of Information Technology

1. MANAGEMENT OF IRS INFORMATION TECHNOLOGY (SEC. 2101 OF THE BILL AND SEC. 7803 OF THE CODE)

PRESENT LAW

The Code describes duties and responsibilities for the Commissioner, the Chief Counsel, and the OTA of the IRS.[143] It does not presently enumerate duties and responsibilities of an IRS Chief Information Officer ("IRS CIO").

Also, the Code does not explicitly provide for development and implementation of a multiyear strategic plan for the information technology needs of the IRS, and does not require verification and validation of major acquisitions of information technology by the IRS, including the Customer Account Data Engine 2 ("CADE 2") and the Enterprise Case Management System ("ECM").

REASONS FOR CHANGE

The Committee believes it is important for the IRS to afford taxpayers peace of mind that their most sensitive information is being

[143] Sec. 7803.

responsibly protected by their government, using the latest technology. The Committee believes the appointment of an IRS CIO with operational control of all information technology infrastructure for the IRS, and responsibility for the development and implementation of realistic multiyear strategic plans, in conjunction with the verification and validation of major acquisitions of information technology, are important components in the development, maintenance, and implementation of information technology that is secure and integrated.

The Committee also has concerns about audits from the IRS's oversight bodies, which report that offices or divisions within the IRS, other than the office of information technology, have procured solutions that the Committee considers to be within the definition of information technology, but for which the office of information technology was not notified or consulted. The Committee believes that strengthening of the roles and responsibilities of the CIO and clarifying the definition of "information technology" will assist the IRS in better administering and overseeing its information technology.

The Committee believes that it is important to mandate the independent verification and validation of CADE 2 and ECM plans to ensure that the planning for each of these projects is reasonable and achievable. The Committee notes that the IRS has struggled for years to complete both of these projects. CADE 2, the IRS's replacement for the Individual Master File that houses individuals' tax account data, initially began development in 2009 with an estimated completion in 2015. However, to date, the IRS has spent almost $2 billion on this project and is not able to provide a completion date for all phases of the project. While the IRS initiated the ECM project in 2015, after initially selecting and procuring an ECM solution, the IRS later determined that this solution could not be deployed enterprise-wide. Both of these systems are central to the success of the IRS in meeting its mission. If Congress is to continue to support and fund these programs, certainty is needed that the IRS will be able to plan for and implement these programs.

EXPLANATION OF PROVISION

Under the provision, the Commissioner is required to appoint an IRS CIO. The Commissioner and the Secretary will act through the IRS CIO with respect to the development, implementation, and maintenance of information technology for the IRS. The IRS CIO will be responsible for the development, implementation, and maintenance of information technology for the IRS, for ensuring that the information technology of the IRS is secure and integrated, for maintaining operational control of all information technology for the IRS, for acting as the principal advocate for the information technology needs of the IRS, and for consulting with the Chief Procurement Officer of the IRS to ensure that the information technology acquired for the IRS is consistent with the strategic plan, described below.

The IRS CIO will also be responsible for developing and implementing a multiyear strategic plan for the information technology needs of the IRS. This plan should include performance measures of such technology and its implementation, and a plan for an integrated enterprise architecture of the information technology of the

IRS. It should take into account the resources needed to accomplish such a plan, as well as planned major acquisitions of information technology by the IRS. The plan should also align with the needs and strategic plan of the IRS. The IRS CIO will review and update this plan at least once a year, taking into account the development of new information technology and the needs of the IRS.

Under the provision, the Commissioner will develop plans for each phase of CADE 2, except phase one, and enter into a contract with an independent reviewer to verify and validate implementation plans developed for each phase, except phase one, and for the ECM. Furthermore, the Chief Procurement Officer of the IRS is directed to regularly consult with the IRS CIO and to identify all significant IRS information technology acquisitions in excess of $1,000,000, providing written notification to the IRS CIO of each such acquisition in advance of acquisition.

The verification and validation of phase two of CADE 2 and the ECM are to be completed within one year after the date of enactment. The development of plans for all subsequent phases of CADE 2 should be completed within one year after the date of enactment and the verification and validation of each phase should be completed within one year after the date on which the plan for such phase is completed.

EFFECTIVE DATE

The provision is generally effective on the date of enactment.

2. INTERNET PLATFORM FOR FORM 1099 FILINGS
(SEC. 2102 OF THE BILL)

PRESENT LAW

The Code does not presently require the IRS to make available an internet platform for the preparation or filing of information returns, such as the Form 1099 series.

REASONS FOR CHANGE

The Committee believes that it is desirable to provide a simple and secure manner for small businesses to file critical tax information returns electronically. The Committee further believes that such a secure manner of filing can be modeled on an existing online platform, Social Security Administration ("SSA") Business Services Online. The Committee believes that an online platform for submitting information returns to the IRS, similar to SSA Business Services Online, could improve compliance of small business taxpayers while reducing their administrative burden. Businesses would be able to prepare and file information returns such as IRS Form 1099–MISC, Miscellaneous Income, online while preparing the payee statements and creating necessary business records.

EXPLANATION OF PROVISION

The provision requires the Secretary of the Treasury (or his or her delegate) to make available, by January 1, 2023, an internet website or other electronic medium (the "website"), with a user interface and functionality similar to the Business Services Online

Suite of Services provided by the Social Security Administration.[144] The website will allow persons, with access to resources and guidance provided by the IRS, to prepare, file, and distribute Forms 1099, and maintain a record of completed, filed, and distributed Forms 1099. The Secretary is required to ensure that the services provided on the website are not a replacement for services currently provided by the IRS, and that the website comply with applicable security standards.

EFFECTIVE DATE

The provision is effective on the date of enactment.

3. STREAMLINED CRITICAL PAY AUTHORITY FOR INFORMATION TECHNOLOGY POSITIONS (SEC. 2103 OF THE BILL AND NEW SEC. 7812 OF THE CODE)

PRESENT LAW

The IRS is currently subject to the personnel rules and procedures set forth in Title 5 of the United States Code. Under these rules, IRS employees generally are classified under the General Schedule or the Senior Executive Service.

The RRA98 provided the IRS with certain personnel flexibilities, one of which was the streamlined critical pay authority.[145] This authority was originally provided for 10 years; it was extended on two occasions and ultimately expired on September 30, 2013.[146]

Under RRA98, the Secretary of the Treasury, or his delegate, was authorized to fix the compensation of, and appoint up to 40 individuals to, designated critical technical and professional positions, provided that: (1) the positions require expertise of an extremely high level in a technical or professional field and are critical to the IRS; (2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position; (3) designation of such positions is approved by the Secretary; (4) the terms of such appointments are limited to no more than four years; (5) appointees to such positions are not IRS employees immediately prior to such appointment; and (6) the total annual compensation for any position (including performance bonuses) does not exceed the rate of pay of the Vice President of the United States.

These appointments would not be subject to the otherwise applicable requirements under Title 5. All such appointments would be excluded from the collective bargaining unit and the appointments would not be subject to approval of the OMB or the Office of Personnel Management.

Also, OMB was authorized to approve increases in the pay level for certain critical pay positions requested by the Secretary. These critical pay positions would be critical, technical and professional positions other than those designated under the streamlined authority described above. OMB was authorized to approve requests for critical position pay up to the highest total compensation that

[144] Available at http://www.ssa.gov/bso/bsowelcome.htm.

[145] Pub. L. No. 105–206, 112 Stat. 712 (1998).

[146] In December 2007, the Consolidated Appropriations Act, 2008, Pub. L. No. 110–161, 121 Stat. 1844, (2008), extended the original deadline to July 23, 2013. Subsequently, the Consolidated and Further Continuing Appropriations Act 2013, Pub. L. No. 113–6, 127 Stat. 198 (2013), extended the deadline to September 30, 2013.

does not exceed the rate of pay of the Vice President of the United States.

According to TIGTA, during the years in which it had streamlined critical pay authority, the IRS exercised that authority to fill 168 positions, the majority of which were in the Information Technology function of the IRS.[147]

REASONS FOR CHANGE

The Committee is aware that, in order to identify and prevent identity theft or refund fraud, the IRS has focused on improving its efforts in cybersecurity, by providing continuous monitoring of systems, replacing old technology, developing new authentication measures, and working with the private sector to identify best practices. To do so, the IRS must be able to recruit and retain experts from the private sector in highly specialized areas of information technology. The Committee believes that the IRS's ability to recruit such experts was aided by the now-expired streamlined critical pay authority, and believes that reauthorization is appropriate.

EXPLANATION OF PROVISION

The provision reinstates streamlined critical pay authority at IRS for positions in its information technology operations that are necessary to ensure the functionality of such operations. Such authority is reinstated during the period beginning on the date of the enactment of section 7812 of the Code, and ending on September 30, 2025, for appointees to such positions who were not IRS employees prior to the date of enactment of this Act.

The provision reinstates the ability to provide payment for recruitment, retention, relocation incentives, and relocation expenses for positions in information technology operations at the IRS. Such authority is reinstated during the period beginning on the date of the enactment of section 7812 of the Code, and ending on September 30, 2025.

The provision also reinstates the ability to pay performance bonuses for senior executives who have program management responsibility over the information technology operations at the IRS. Such authority is reinstated during the period beginning on the date of the enactment of section 7812 of the Code, and ending on September 30, 2025.

EFFECTIVE DATE

The provision is effective for payments made on or after the date of enactment.

[147] TIGTA, *The Internal Revenue Service's Use of its Streamlined Critical Pay Authority,*" Ref. No. 2015–IE–R001 (December 5, 2014), available at https://www.treasury.gov/tigta/iereports/2015reports/2015ier001fr.pdf.

C. MODERNIZATION OF CONSENT-BASED INCOME VERIFICATION SYSTEM

1. DISCLOSURE OF TAXPAYER INFORMATION FOR THIRD-PARTY INCOME VERIFICATION (SEC. 2201 OF THE BILL AND SEC. 6103 OF THE CODE)

PRESENT LAW

Disclosure of return information with consent of the taxpayer

As a general rule, returns and return information are confidential and cannot be disclosed unless authorized by Title 26.[148] Under section 6103(c), the IRS may disclose the return or return information of a taxpayer to a third party designated by the taxpayer in a request for or consent to such disclosure. Treasury regulations set forth the requirements for such consent.[149] A request for consent to disclosure in written form must be a separate written document pertaining solely to the authorized disclosure. At the time the consent is signed and dated by the taxpayer, the written document must indicate: (1) the taxpayer's taxpayer identity information; (2) the identity of the person(s) to whom disclosure is to be made; (3) the type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and (4) the taxable year(s) covered by the return or return information. The regulations also require that the consent be submitted within 120 days of the date signed and dated by the taxpayer.

Income Verification Express Service (IVES)

Mortgage lenders and others in the financial community use the IRS's Income Verification Express Service (IVES) to confirm the income of a borrower during the processing of a loan application.[150] Customers of IVES fax to a specified IRS office a signed Form 4506–T ("Request for Transcript of Tax Return") or Form 4506T–EZ ("Short Form Request for Individual Tax Return Transcript"). The IRS provides three types of transcript information as part of the IVES program: (1) a return transcript; (2) Form W–2 ("Wage and Tax Statement") transcript information; and (3) Form 1099 [151] transcript information.

The IRS imposes a $2.00 fee for each transcript requested. The requested transcript information is delivered to a secure mailbox on the IRS's e-Services electronic platform, generally within two to three business days.

To participate in the IVES program, companies must register and identify employees to act as agents to receive transcripts on the company's behalf.[152] According to the Form 13803 ("Application

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[148] Sec. 6103(a).

[149] Treas. Reg. sec. 301.6103(c)–1. The regulations also specify the requirements for a nonwritten request for information or consent to disclosure to allow a third party to provide information or assistance relating to the taxpayer's return or to a transaction or other contact between the taxpayer and the IRS.

[150] Internal Revenue Service, Income Verification Express Service, https://www.irs.gov/individuals/international-taxpayers/income-verification-express-service (January 31, 2019).

[151] There are various Forms 1099: Form 1099–B, Proceeds From Broker or Barter Exchange Transactions; Form 1099–DIV, Dividends and Distributions; 1099–INT, Interest Income; 1099–MISC, Miscellaneous Income; 1099–OID, Original Issue Discount; or 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

[152] Applicants also must choose one or more of the reasons listed on the form as the basis for using the IVES program: mortgage services, background check, credit check, banking service, licensing requirement, or other (must be specified).

to Participate in the Income Verification Express Services (IVES) Program"), the IRS conducts a suitability check on the applicant and all the principals listed on the application to determine the applicant's suitability to be an IVES participant. After an applicant passes the suitability check and the IRS completes processing the application, the IRS notifies the applicant of acceptance to participate in the program.

REASONS FOR CHANGE

The Committee believes that fully automating the IVES program to allow for electronic submissions, as well as electronic responses, will reduce operational costs and reduce paperwork burdens for borrowers. The Committee also believes that automating the IVES program will increase small business access to capital, thereby making borrowing more affordable, easier, and safer for consumers and small business. The Committee intends that the automated process be as close to real time as possible while providing the same data fields currently provided by the non-automated version. While convenience is important, the Committee also wants to emphasize that convenience should not compromise the security of information within the system. Therefore, the Committee believes it is appropriate that the Secretary ensure that the program comply with applicable security standards, such as regulations and guidance provided by the National Institute of Standards and Technology.

EXPLANATION OF PROVISION

As noted above, the current IVES program requires that transcript information requests be submitted to the IRS by fax and then the transcripts are furnished electronically to a secure mailbox. After a specified time period, the provision requires the Secretary (or his delegate) to implement a qualified disclosure program that is fully automated, accomplished through the Internet, and through which disclosures are accomplished in as close to real-time as is practicable. The program is to comply with applicable security standards and guidelines. The term "qualified disclosure" means a disclosure made pursuant to section 6103(c) to a person seeking to verify the income of a taxpayer who is a borrower in the process of a loan application. "Qualified disclosure" is intended as a reference to the types of disclosures made under the current IVES program. The provision is not intended to exclude current uses of the IVES program.

To cover the costs of implementing such a program, for a two-year period beginning six months after the date of enactment, the Secretary is authorized to assess and collect a fee for qualified disclosures at such rates as the Secretary determines are sufficient to cover the costs related to implementing the program, including the costs of any necessary infrastructure or technology. Such fees are in addition to any other fee assessed and collected for such disclosures. The amounts received from the fees assessed and collected are to be deposited in and credited to an account solely for the purpose of carrying out the activities associated with implementing the qualified disclosure program. Not later than one year after the close of the two-year period, the Secretary is required to implement the program.

EFFECTIVE DATE

The provision is effective on the date of enactment.

2. LIMIT REDISCLOSURES AND USES OF CONSENT-BASED DISCLOSURES OF TAX RETURN INFORMATION (SEC. 2202 OF THE BILL AND SEC. 6103 OF THE CODE)

PRESENT LAW

In general

As a general rule, returns and return information are confidential and cannot be disclosed unless authorized by Title 26.[153] Under section 6103(c), a taxpayer may designate in a request or consent to the disclosure by the IRS of his or her return or return information to a third party. Treasury regulations set forth the requirements for such consent.[154] The request or consent may be in written or non-written form. The Treasury regulations require that the taxpayer sign and date a written consent. At the time the consent is signed and dated by the taxpayer, the written document must indicate (1) the taxpayer's identity information; (2) the identity of the person to whom disclosure is to be made; (3) the type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and (4) the taxable year covered by the return or return information. The regulations also require that the consent be submitted within 120 days of the date signed and dated by the taxpayer. Present law does not require that a recipient receiving returns or return information by consent maintain the confidentiality of the information received. Under present law, the recipient is also free to use the information for purposes other than for which the information was solicited from the taxpayer.

Criminal penalties

Under section 7206, it is a felony to willfully make and subscribe any document that contains or is verified by a written declaration that it is made under penalties of perjury and which such person does not believe to be true and correct as to every material matter.[155] Upon conviction, such person may be fined up to $100,000 ($500,000 in the case of a corporation) or imprisoned up to three years, or both, together with the costs of prosecution.

Under section 7213, criminal penalties apply to: (1) willful unauthorized disclosures of returns and return information by Federal and State employees and other persons; (2) the offering of any item of material value in exchange for a return or return information and the receipt of such information pursuant to such an offer; and (3) the unauthorized disclosure of return information received by certain shareholders under the material interest provision of section 6103. Under section 7213, a court can impose a fine up to $5,000, up to five years imprisonment, or both, together with the costs of prosecution. If the offense is committed by a Federal employee or officer, the employee or officer will be discharged from office upon conviction.

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[153] Sec. 6103(a).
[154] Treas. Reg. sec. 301.6103(c)–1.
[155] Sec. 7206(1).

Under section 7213A, the willful and unauthorized inspection of returns and return information can subject Federal and State employees and others to a maximum fine of $1,000, up to a year in prison, or both, in addition to the costs of prosecution. If the offense is committed by a Federal employee or officer, the employee or officer will be discharged from office upon conviction.

Civil damage remedies for unauthorized disclosure or inspection

If a Federal employee makes an unauthorized disclosure or inspection, a taxpayer can bring suit against the United States in Federal district court. If a person other than a Federal employee makes an unauthorized disclosure or inspection, suit may be brought directly against such person. No liability results from a disclosure based on a good faith, but erroneous, interpretation of section 6103. A disclosure or inspection made at the request of the taxpayer will also relieve liability.

Upon a finding of liability, a taxpayer can recover the greater of $1,000 per act of unauthorized disclosure (or inspection), or the sum of actual damages plus, in the case of an inspection or disclosure that was willful or the result of gross negligence, punitive damages. The taxpayer may also recover the costs of the action and, if found to be a prevailing party, reasonable attorney fees.

The taxpayer has two years from the date of the discovery of the unauthorized inspection or disclosure to bring suit. The IRS is required to notify a taxpayer of an unauthorized inspection or disclosure as soon as practicable after any person is criminally charged by indictment or information for unlawful inspection or disclosure.

REASONS FOR CHANGE

The Committee is concerned that information obtained by consent is not subject to the same protection and limits on use as currently applies to other taxpayer information. The Committee believes that this provision addresses the numerous privacy concerns raised by current law.

EXPLANATION OF PROVISION

Under the provision, persons designated by the taxpayer to receive return information shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.

EFFECTIVE DATE

The provision is effective for disclosures made six months after the date of enactment.

D. Expanded Use of Electronic Systems

1. ELECTRONIC FILING OF RETURNS (SEC. 2301 OF THE BILL AND SEC. 6011 OF THE CODE)

PRESENT LAW

RRA98 states a Congressional policy to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA98 set a goal for the IRS to have at least 80 percent of all Federal tax and informa-

tion returns filed electronically by 2007.[156] Section 2001(b) of RRA98 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

Present law requires the Secretary to issue regulations regarding electronic filing and specifies certain limitations on the rules that may be included in such regulations.[157] The statute requires that Federal income tax returns prepared by specified tax return preparers be filed electronically,[158] and further requires that all partnerships with more than 100 partners be required to file electronically. For taxpayers other than partnerships, the statute prohibits any requirement that persons who file fewer than 250 returns during a calendar year file electronically. With respect to individuals, estates, and trusts, the Secretary may permit, but generally cannot require, electronic filing of income tax returns. In crafting any of these required regulations, the Secretary must take into account the ability of taxpayers to comply at a reasonable cost.

The regulations require corporations that have assets of $10 million or more and file at least 250 returns during a calendar year to file electronically their Form 1120/1120S income tax returns (U.S. Corporation Income Tax Return/U.S. Income Tax Return for an S Corporation) and Form 990 information returns (Return of Organization Exempt from Income Tax) for tax years ending on or after December 31, 2006.[159] In determining whether the 250 returns threshold is met, income tax, excise tax, employment tax and information returns filed within one calendar year are counted.

The Code provides that failure to comply with information reporting requirements is subject to a failure to file correct information return penalty but provides a *de minimis* exception for failures that are attributable solely to noncompliance with the electronic filing requirements. Under the *de minimis* exception, failure to satisfy the electronic filing requirements results in imposition of a failure to file penalty[160] if a failure arises with respect to (1) more than 250 information returns; (2) more than 100 information returns in the case of a partnership having more than 100 partners; or (3) a return described in Section 6011(e)(4).[161] Accordingly, there is a penalty waiver on the electronic filing requirements on the first 250 information returns or in the case of the first 100 information returns in partnerships with more than 100 partners.

REASONS FOR CHANGE

Consistent with the policy expressed in RRA98, the Committee supports paperless filing as the preferred and most convenient means of filing Federal tax and information returns. Electronic filing produces a number of benefits both for taxpayers and the IRS, including shorter processing times, fewer errors, and better data. The Committee believes that the efficiencies and cost savings

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[156] The Electronic Tax Administration Advisory Committee, the body charged with oversight of IRS progress in reaching that goal, projected an overall e-filing rate of 80.1 percent in the 2017 filing season based on all Federal returns. See Electronic Tax Administration Advisory Committee, *Annual Report to Congress,* June 2017, IRS Pub. 3415, page 5.

[157] Sec. 6011(e). Sec. 6011(e) uses the term "magnetic media" and Treasury regulation section 301.6011–2 defines this term to include electronic filing.

[158] Section 6011(e)(3)(B) defines a "specified tax return preparer" as any return preparer who reasonably expects to file more than 10 individual income tax returns during a calendar year.

[159] Treas. Reg. secs. 301.6011–5 and 301.6033–4.

[160] Sec. 6721.

[161] Sec. 6724.

achieved through electronic filing justify expanding such requirements. The Committee is aware that present law restricts the IRS's ability to expand the scope of returns that are required to be filed electronically. The Committee believes that the widespread adoption of computer technology since RRA98 has reduced the additional burden that mandatory e-filing imposes on taxpayers.

EXPLANATION OF PROVISION

The provision relaxes the current restrictions on the authority of the Secretary to mandate electronic filing based on the number of returns required to be filed by a taxpayer in a given taxable period. First, it phases in a reduction in the threshold requirement that taxpayers have an obligation to file a specified number of returns and statements during a calendar year in order to be subject to a regulatory mandate. That threshold is reduced from 250 to 100 in the case of calendar year 2021, and from 100 to 10 in the case of calendar years after 2021. Notwithstanding these thresholds, in the case of a partnership the applicable number is 200 in the case of calendar year 2018, 150 in the case of calendar year 2019, 100 in the case of calendar year 2020, and 50 in the case of calendar year 2021.[162]

The provision authorizes the Secretary to waive the requirement that a Federal income tax return prepared by a specified tax return preparer be filed electronically if a tax return preparer applies for a waiver and demonstrates that the inability to file electronically is due to lack of internet availability (other than dial-up or satellite service) in the geographic location in which the return preparation business is operated.

The provision modifies the special rule for failure to meet magnetic media requirements to conform to the changes made above.

EFFECTIVE DATE

The provision is effective on the date of enactment.

2. UNIFORM STANDARDS FOR THE USE OF ELECTRONIC SIGNATURES FOR DISCLOSURE AUTHORIZATIONS TO, AND OTHER AUTHORIZATIONS OF, PRACTITIONERS (SEC. 2302 OF THE BILL AND SEC. 6061 OF THE CODE)

PRESENT LAW

Disclosure of return information by consent of the taxpayer

As a general rule, returns and return information are confidential and cannot be disclosed unless authorized by the Code.[163] Under section 6103(c), the IRS may disclose the return or return information of a taxpayer to a third party designated by the taxpayer in a request for or consent to such disclosure. Treasury regulations set forth the requirements for such consent.[164] A request for consent to disclosure in written form must be a separate written document pertaining solely to the authorized disclosure. At the time the consent is signed and dated by the taxpayer, the written

[162] There is no change to the requirement that partnerships having more than 100 partners must file electronic returns notwithstanding these thresholds.

[163] Sec. 6103(a).

[164] Treas. Reg. sec. 301.6103(c)–1.

document must indicate (1) the taxpayer's taxpayer identity information; (2) the identity of the person(s) to whom disclosure is to be made; and (3) sufficient facts underlying the request for information or assistance to enable the IRS to determine the nature and extent of the information or assistance requested and the return or return information to be disclosed in order to comply with the taxpayer's request. The regulations also require that the consent be submitted within 120 days of the date signed and dated by the taxpayer.

Electronic signatures

The Secretary is required to develop procedures for the acceptance of signatures in digital and other electronic form.[165] Until such time as such procedures are in place, the Secretary may waive the requirement of a signature for, or provide for alternative methods of signing or subscribing, a particular type or class of return, declaration, statement or other document required or permitted to be made or written under the internal revenue laws and regulations. The Secretary is required to publish guidance as appropriate to define and implement any waiver of the signature requirements or alternative method of signing or subscribing. The IRS currently accepts electronic signatures for some applications, such as the Income Verification Express Services ("IVES") program.[166]

Section 12.101 of the Federal Acquisition Regulations require all Federal agencies to consider commercially available items in the acquisition process.[167]

IRS forms

Form 2848 (Power of Attorney and Declaration of Representative) is used to authorize an individual to represent the taxpayer before the IRS. The individual must be eligible to practice before the IRS.

Form 8821 (Tax Information Authorization) authorizes an individual or organization to request and inspect a taxpayer's confidential tax return information. Form 4506–T (Request for Transcript of Tax Return) authorizes an individual or organization to request and inspect transcripts of a taxpayer's confidential return information. These forms do not authorize an individual to represent the taxpayer before the IRS.

REASONS FOR CHANGE

In the private sector, electronic signatures are widely accepted, and there are many commercially available options to facilitate the acceptance of electronic signatures. The Committee believes that the establishment of uniform guidance for verification of electronic signatures will reduce operational costs and facilitate practitioner

[165] Sec. 6061.

[166] Internal Revenue Service, Income Verification Express Services (IVES) Electronic Signature Requirements (August 2, 2018), available at https://www.irs.gov/individuals/international-taxpayers/income-verification-express-services-ives-electronic-signature-requirements.

[167] Specifically, section 12.101 provides that agencies: (1) conduct market research to determine whether commercial items or nondevelopmental items are available that could meet the agency's requirements; (2) acquire commercial items or nondevelopmental items when they are available to meet the needs of the agency; and (3) require prime contractors and subcontractors at all tiers to incorporate, to the maximum extent practicable, commercial items or nondevelopmental items as components of items supplied to the agency.

representation. The Committee expects the IRS to apply a uniform approach to electronic signatures across IRS programs.

EXPLANATION OF PROVISION

For a request for disclosure to a practitioner with consent of the taxpayer, or for any power of attorney granted by a taxpayer to a practitioner, the provision requires the Secretary to publish guidance to establish uniform standards and procedures for the acceptance of taxpayers' signatures appearing in electronic form with respect to such requests or power of attorney. Such guidance must be published within six months of the date of enactment. For purposes of the provision, a "practitioner" means an individual in good standing who is regulated under 31 U.S.C. sec. 330 (relating to practice before the Department of the Treasury).

EFFECTIVE DATE

The provision is effective on the date of enactment.

3. PAYMENT OF TAXES BY DEBIT AND CREDIT CARDS (SEC. 2303 OF THE BILL AND SEC. 6311 OF THE CODE)

PRESENT LAW

The Code generally permits the payment of taxes by commercially acceptable means such as credit cards.[168] The Secretary may not pay any fee or provide any other consideration in connection with the use of credit, debit, or charge cards for the payment of income taxes.[169]

REASONS FOR CHANGE

The Committee believes that removing the prohibition on the Secretary paying any fees or providing any other consideration in connection with the use of credit, debit, or charge cards will allow the IRS to realize benefits similar to those realized by any business that accepts payment by credit card, including a guarantee that the funds will be paid over and a reduction in the costs of handling paper checks. The Committee believes that the provision could result in increased collections by allowing taxpayers to more easily make a payment by credit card over the telephone without having to wait for the IRS to connect them to third party providers.

EXPLANATION OF PROVISION

The provision removes the prohibition on paying any fees or providing any other consideration in connection with the use of credit, debit, or charge cards for the payment of income taxes to the extent taxpayers paying in this manner are fully responsible for any fees or consideration incurred. The provision requires the Secretary to seek to minimize the amount of any fee or other consideration that the Secretary pays under any contract.

EFFECTIVE DATE

The provision is effective on the date of enactment.

[168] Sec. 6311.
[169] Sec. 6311(d)(2).

4. AUTHENTICATION OF USERS OF ELECTRONIC SERVICES ACCOUNTS (SEC. 2304 OF THE BILL)

PRESENT LAW

The IRS has developed a suite of web-based products, called e-Services Online Tools for Tax Professionals, which provides multiple electronic products and services to tax professionals.

REASONS FOR CHANGE

The Committee is aware that multi-factor authentication of the identity of users of online accounts increases the security of datasets. The Committee also believes that taxpayers are entitled to demand that the IRS carefully guard the sensitive information entrusted by taxpayers to the IRS.

EXPLANATION OF PROVISION

The provision requires the IRS to verify the identity of any individual opening an e-Services account before he or she is able to use such services.

EFFECTIVE DATE

The provision is effective not later than 180 days after the date of enactment.

F. OTHER PROVISIONS

1. REPEAL OF PROVISION REGARDING CERTAIN TAX COMPLIANCE PROCEDURES AND REPORTS (SEC. 2401 OF THE BILL)

PRESENT LAW

Under present law, taxpayers generally are required to calculate their own tax liabilities and submit returns showing their calculations.[170] Section 2004 of RRA98 requires the Secretary of the Treasury or his delegate ("Secretary") to study the feasibility of, and develop procedures for, the implementation of a return-free tax system for appropriate individuals for taxable years beginning after 2007.[171] The Secretary is required annually to report to the tax-writing committees on the progress of the development of such system. The Secretary was required to make the first report on the development of the return-free filing system to the tax-writing committees by June 30, 2000.

REASONS FOR CHANGE

The Committee believes the reports required under RRA98 are unnecessary and that the Secretary's limited resources are better spent elsewhere.

EXPLANATION OF PROVISION

The provision repeals section 2004 of RRA98.

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[170] Sec. 6012.
[171] Pub. L. No. 105–206, sec. 2004.

EFFECTIVE DATE

The provision is effective on the date of enactment.

2. COMPREHENSIVE TRAINING STRATEGY (SEC. 2402 OF THE BILL)

PRESENT LAW

The Code provides that the Commissioner has such duties and powers as prescribed by the Secretary.[172] Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes. In executing these duties, the Commissioner depends upon strategic plans that prioritize goals and manage its resources. In the current strategic plan, cultivating a well-equipped, diverse, flexible and engaged workforce is identified as one of the IRS's six strategic goals.[173]

Within the IRS, the OTA is expected to represent taxpayer interests independently in disputes with the IRS. The OTA has four principal functions: (1) to assist taxpayers in resolving problems with the IRS; (2) to identify areas in which taxpayers have problems in dealing with the IRS; (3) to propose changes in the administrative practices of the IRS to mitigate problems in areas in which taxpayers have issues in dealing with the IRS; and (4) to identify potential legislative changes which may be appropriate to mitigate such problems.[174] The NTA supervises the OTA. The NTA reports directly to the Commissioner.

REASONS FOR CHANGE

The Committee believes that a well-trained IRS workforce is an important element of the ability of the IRS to provide taxpayers with top-quality service, helping them understand and meet their tax responsibilities, and enforcing the law with integrity and fairness. By requiring that the Commissioner submit a report to Congress outlining a comprehensive training strategy for IRS employees, the Committee hopes to encourage the IRS to consider possible additions and improvements to current processes.

EXPLANATION OF PROVISION

The provision requires that the Commissioner submit to Congress a written report providing a comprehensive training strategy for employees of the IRS. The report is to be submitted not later than one year after the date of enactment of this Act, and is to include: a plan to streamline current training processes, including an assessment of the utility of further consolidating internal training programs, technology, and funding; a plan to develop annual training regarding taxpayer rights, including the role of the OTA, for employees that interface with taxpayers and the direct managers of such employees; a plan to improve technology-based training; proposals to focus employee training on early, fair, and efficient resolution of taxpayer disputes for employees that interface with

[172] Sec. 7803(a).

[173] See *Internal Revenue Service Strategic Plan FY2018–2022*, Publication 3744, available at https://www.irs.gov/pub/irs-pdf/p3744.pdf.

[174] Sec. 7803(c).

taxpayers and the direct managers of such employees, as well as ensure consistency of skill development and employee evaluation throughout the IRS; and a thorough assessment of the funding necessary to implement such a strategy.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE III—MISCELLANEOUS PROVISIONS

A. REFORM OF LAWS GOVERNING INTERNAL REVENUE SERVICE EMPLOYEES

1. PROHIBITION ON REHIRING ANY EMPLOYEE OF THE INTERNAL REVENUE SERVICE WHO WAS INVOLUNTARILY SEPARATED FROM SERVICE FOR MISCONDUCT (SEC. 3001 OF THE BILL AND SEC. 7804 OF THE CODE)

PRESENT LAW

Employees of the IRS are subject to rules governing Federal employment generally, as well as rules of conduct specific to Department of the Treasury and the IRS.[175] Standards of Ethical Conduct for Employees of the Executive Branch are supplemented by additional rules applicable to employees of the Department of the Treasury.[176]

The Code provides that the Commissioner has such duties and powers as prescribed by the Secretary.[177] Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party, and to recommend to the President a candidate for Chief Counsel (and recommend any removal of the Chief Counsel). Unless otherwise specified by the Secretary, the Commissioner is authorized to employ such persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws and is required to issue all necessary directions, instructions, orders, and rules applicable to such persons,[178] including determination and designation of posts of duty.

RRA98 requires the IRS to terminate an employee for certain proven violations committed by the employee in connection with the performance of official duties.[179] The violations include: (1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets; (2) providing a false statement under oath material to a matter involving a taxpayer; (3) with respect to a taxpayer, taxpayer representative, or other IRS employee, the violation of any right under the U.S. Constitution, or any civil right established under Titles VI or VII of the Civil Rights Act of 1964,

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[175] Part III of Title 5 of the United States Code prescribes rules for Federal employment, including employment, retention, and management and employee issues.

[176] Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635; Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury, 5 C.F.R. Part 3101; Department of the Treasury Employee Rules of Conduct, 31 C.F.R. Part 0.

[177] Sec. 7803(a).

[178] Sec. 7804.

[179] Pub. L. No. 105–206, sec. 1203(b), July 22, 1998.

Title IX of the Educational Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, sections 501 or 504 of the Rehabilitation Act of 1973 and Title I of the Americans with Disabilities Act of 1990; (4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or a taxpayer representative; (5) assault or battery on a taxpayer or other IRS employee, but only if there is a criminal conviction or a final judgment by a court in a civil case, with respect to the assault or battery; (6) violations of the Code, Treasury Regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating or harassing a taxpayer or other IRS employee; (7) willful misuse of section 6103 for the purpose of concealing data from a Congressional inquiry; (8) willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause; (9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause; and (10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

RRA98 provides non-delegable authority to the Commissioner to determine that mitigating factors exist, that, in the Commissioner's sole discretion, mitigate against terminating the employee. The Act also provides that the Commissioner, in his sole discretion, may establish a procedure to determine whether an individual should be referred for such a determination by the Commissioner. TIGTA is required to track employee terminations and terminations that would have occurred had the Commissioner not determined that there were mitigation factors and include such information in TIGTA's annual report to Congress.

REASONS FOR CHANGE

TIGTA reported that between October 2009 and September 2013 the IRS had rehired 141 former employees who had previously been dismissed involuntarily for cause.[180] The types of misconduct that led to the involuntary dismissals included willful failure to file tax returns, unauthorized access to confidential tax information, falsification of official forms, abuse of leave, and other violations of IRS policies. The Committee believes that rehiring persons who were fired for such misconduct is improper and poses a serious risk to the confidentiality of the information entrusted to the IRS and erodes trust in the IRS. In order to restore trust in the integrity of IRS employees, and hold IRS officials accountable for their hiring practices, it is necessary to ban rehiring persons who were dismissed for cause.

EXPLANATION OF PROVISION

Under the provision, a former employee of the IRS who was involuntarily separated due to misconduct under subchapter A of Chapter 80 of the Code, under chapters 43 or 75 of Title 5 of the United States Code, or whose employment was terminated under section 1203 of RRA98, cannot be reemployed by the IRS.

[180] Inspector General for Tax Administration, Department of the Treasury, *Additional Consideration of Prior Conduct and Performance Issues Is Needed When Hiring Former Employees* (TIGTA 2015–10–006), December 30, 2014, available at https://www.treasury.gov/tigta/auditreports/2015reports/201510006fr.pdf.

EFFECTIVE DATE

The provision is effective with respect to the hiring of employees after the date of enactment.

2. NOTIFICATION OF UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION (SEC. 3002 OF THE BILL AND SEC. 7431 OF THE CODE)

PRESENT LAW

Section 7431 provides for civil damages resulting from an unauthorized disclosure of inspection of return information. If a Federal employee makes an unauthorized disclosure or inspection, a taxpayer can bring suit against the United States in Federal district court. If a person other than a Federal employee makes an unauthorized disclosure or inspection, suit may be brought directly against such person. No liability results from a disclosure based on a good faith, but erroneous, interpretation of section 6103. A disclosure or inspection made at the request of the taxpayer will also relieve liability.

Upon a finding of liability, a taxpayer can recover the greater of $1,000 per act of unauthorized disclosure (or inspection), or the sum of actual damages plus, in the case of an inspection or disclosure that was willful or the result of gross negligence, punitive damages. The taxpayer may also recover the costs of the action and, if found to be a prevailing party, reasonable attorney fees.

The taxpayer has two years from the date of the discovery of the unauthorized inspection or disclosure to bring suit. The IRS is required to notify a taxpayer of an unauthorized inspection or disclosure as soon as practicable after any person is criminally charged by indictment or information for unlawful inspection or disclosure.

REASONS FOR CHANGE

The Committee believes that current law requiring the Secretary to notify a taxpayer about unauthorized inspection or disclosure only if the offending party is criminally charged is insufficient. The Committee believes the notification required under this provision is necessary to enhance the ability of a taxpayer to exercise his or her rights under the Code to bring a civil action for unauthorized inspection or disclosure.

EXPLANATION OF PROVISION

The provision requires the Secretary to notify a taxpayer if the IRS or a Federal or State agency (upon notice to the Secretary by such Federal or State agency) proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The provision requires the notice to include the date of the unauthorized inspection or disclosure and the rights of the taxpayer as a result of such administrative determination.

EFFECTIVE DATE

The provision is effective for determinations proposed after 180 days after the date of enactment.

B. Provisions Relating to Exempt Organizations

1. MANDATORY E-FILING BY EXEMPT ORGANIZATIONS (SEC. 3101 OF THE BILL AND SECS. 6033 AND 6104 OF THE CODE)

PRESENT LAW

In general

RRA98 states a Congressional policy to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA98 set a goal for the IRS to have at least 80 percent of all Federal tax and information returns filed electronically by 2007.[181] Section 2001(b) of RRA98 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

Present law requires the Secretary to issue regulations regarding electronic filing and specifies certain limitations on the rules that may be included in such regulations.[182] The statute requires that Federal income tax returns prepared by specified tax return preparers be filed electronically,[183] and that all partnerships with more than 100 partners file electronically. For taxpayers other than partnerships, the statute prohibits any requirement that persons who file fewer than 250 returns during a calendar year file electronically. With respect to individuals, estates, and trusts, the Secretary may permit, but generally cannot require, electronic filing of income tax returns. In crafting any of these required regulations, the Secretary must take into account the ability of taxpayers to comply at reasonable cost.

The regulations require corporations that have assets of $10 million or more and file at least 250 returns during a calendar year to file electronically their Form 1120/1120S income tax returns and Form 990 information returns for tax years ending on or after December 31, 2006.[184] In determining whether the 250 return threshold is met, income tax, information, excise tax, and employment tax returns filed within one calendar year are counted.

Tax-exempt organizations

Most tax-exempt organizations are required to file an annual information return or notice in the Form 990 series. Since 2007, the smallest organizations—generally, those with gross receipts of less than $50,000—may provide an abbreviated notice on Form 990–N, sometimes referred to as an "e-postcard." Which form to file depends on the annual receipts, value of assets, and types of activities of the exempt organization. The public can view electronic images of Forms 990, 990–EZ, and 990–PF online, or purchase hard or soft copies from the IRS.[185]

In general, only the largest and smallest tax-exempt organizations are required to electronically file their annual information re-

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[181] The Electronic Tax Administration Advisory Committee, the body charged with oversight of IRS progress in reaching that goal projected an overall e-filing rate of 80.1 percent in the 2017 filing season based on all Federal returns. See Electronic Tax Administration Advisory Committee, *Annual Report to Congress,* June 2017, IRS Pub. 3415, page 5.

[182] Sec. 6011(e). Section 6011(e) uses the term "magnetic media," which the Treasury regulation section 301.6011–2 defines to include electronic filing.

[183] Section 6011(e)(3)(B) defines a "specified tax return preparer" as any return preparer who reasonably expects to file more than 10 individual income tax returns during a calendar year.

[184] Treas. Reg. secs. 301.6011–5 and 301.6033–4.

[185] See https://www.irs.gov/charities-non-profits/copies-of-eo-returns-available, last updated August 16, 2018.

turns. First, as indicated above, tax-exempt corporations that have assets of $10 million or more and that file at least 250 returns during a calendar year must electronically file their Form 990 information returns. Private foundations and charitable trusts, regardless of asset size, that file at least 250 returns during a calendar year are required to file electronically their Form 990–PF information returns.[186] Finally, organizations that file Form 990–N (the e-postcard) also must electronically file.[187]

REASONS FOR CHANGE

The Committee believes that mandatory electronic filing by all tax-exempt organizations required to file information returns will improve efficiency, reduce costs and generally improve oversight of tax-exempt organizations. Electronic filing generally increases efficiency because it enables the IRS to make use of its computer infrastructure to identify returns with audit potential. This focus, in turn, allows the IRS to utilize its resources in areas in which such efforts would be most fruitful. Moreover, the reduction in processing costs incurred by the IRS as a result of electronic filing initiatives is well documented.

The Committee believes it is important to increase the transparency of, and enhance public access to information about, tax-exempt organizations, particularly charitable organizations. Present law enables the public to know whether an entity purporting to be an exempt organization is in compliance with the Code by mandating that the IRS make certain documents available to the public. In complying with its obligation to release returns, the IRS makes the returns available in read-only format. Although many tax-exempt organizations already file their required returns electronically, a significant number of entities continue to file on paper. Because the IRS generally releases all returns in the same read-only format regardless of whether they were filed electronically or on paper, the IRS expends time and resources to conform all returns to a uniform format. The Committee believes that a broader requirement for electronic filing and the addition of a requirement that the information be released in machine-readable format will expedite the publication of the information that is required to be disclosed by the IRS and enhance its usability by stakeholders attempting to exercise oversight of tax-exempt organizations. Such stakeholders include not only members of the public who may support or donate to an organization, but also state and local officials charged with oversight responsibilities and responsibility for prosecuting fraudulent charities.

EXPLANATION OF PROVISION

The provision extends the requirement to e-file to all tax-exempt organizations required to file statements or returns in the Form 990 series or Form 8872 ("Political Organization Report of Contributions and Expenditures"). The provision also requires that the IRS make the information provided on the forms available to the

[186] Taxpayers can request waivers of the electronic filing requirement if they cannot meet that requirement due to technological constraints, or if compliance with the requirement would result in undue financial burden on the taxpayer. Treas. Sec. 301.6033–4.

[187] See Form 990–N, "Electronic Notice for Tax-exempt Organizations Not Required to File a Form 990 or 990–EZ."

public (consistent with the disclosure rules of section 6104 of the Code) in a machine-readable format as soon as practicable.

EFFECTIVE DATE

The provision generally is effective for taxable years beginning after the date of enactment. Transition relief is provided for certain organizations. First, for certain small organizations or other organizations for which the Secretary determines that application of the e-filing requirement would constitute an undue hardship in the absence of additional transitional time, the requirement to file electronically must be implemented not later than taxable years beginning two years following the date of enactment. For this purpose, small organization means any organization: (1) the gross receipts of which for the taxable year are less than $200,000; and (2) the aggregate gross assets of which at the end of the taxable year are less than $500,000. In addition, the provision grants IRS the discretion to delay the effective date not later than taxable years beginning two years after the date of enactment for the filing of Form 990–T (reports of unrelated business taxable income or the payment of proxy tax under section 6033(e)).

2. NOTICE REQUIRED BEFORE REVOCATION OF TAX-EXEMPT STATUS FOR FAILURE TO FILE RETURN (SEC. 3102 OF THE BILL AND SEC. 6033(j) OF THE CODE)

PRESENT LAW

Applications for tax exemption

Section 501(c)(3) organizations

Section 501(c)(3) organizations (with certain exceptions) are required to seek formal recognition of tax-exempt status by filing an application with the IRS (Form 1023 (Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code) or Form 1023–EZ (Streamlined Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code)).[188] In response to the application, the IRS issues a determination letter or ruling either recognizing the applicant as tax-exempt or not. Certain organizations are not required to apply for recognition of tax-exempt status in order to qualify as tax-exempt under section 501(c)(3) but may do so. These organizations include churches, certain church-related organizations, organizations (other than private foundations) the gross receipts of which in each taxable year are normally not more than $5,000, and organizations (other than private foundations) subordinate to another tax-exempt organization that are covered by a group exemption letter.

A favorable determination by the IRS on an application for recognition of tax-exempt status generally will be retroactive to the date that the section 501(c)(3) organization was created if it files a completed Form 1023 within 15 months of the end of the month in which it was formed.[189] If the organization does not file Form

[188] See sec. 508(a).

[189] Pursuant to Treas. Reg. sec. 301.9100–2(a)(2)(iv), organizations are allowed an automatic 12-month extension as long as the application for recognition of tax exemption is filed within the extended, *i.e.,* 27-month, period. The IRS also may grant an extension beyond the 27-month period if the organization is able to establish that it acted reasonably and in good faith and that

1023 or files a late application, it will not be treated as tax-exempt under section 501(c)(3) for any period prior to the filing of an application for recognition of tax exemption.[190] Contributions to section 501(c)(3) organizations that are subject to the requirement that the organization apply for recognition of tax-exempt status generally are not deductible from income, gift, or estate tax until the organization receives a determination letter from the IRS.[191]

Other section 501(c) organizations

Most other types of section 501(c) organizations—including organizations described within sections 501(c)(4) (social welfare organizations, etc.), 501(c)(5) (labor organizations, etc.), or 501(c)(6) (business leagues, etc.)—are not required to apply for recognition of tax-exempt status. Rather, organizations are exempt under these subsections if they satisfy the requirements applicable to such organizations. However, an organization that intends to operate as a section 501(c)(4) organization must notify the Secretary no later than 60 days after its formation that it is operating as such by filing form 8976 (Notice of Intent to Operate Under Section 501(c)(4)). In addition, in order to obtain certain benefits such as public recognition of tax-exempt status, exemption from certain State taxes, and nonprofit mailing privileges, such organizations voluntarily may request a formal recognition of exempt status by filing a Form 1024 (Application for Recognition of Exemption under Section 501(a)) or Form 1024–A (Application for Recognition of Exemption under Section 501(c)(4) of the Internal Revenue Code).

Annual information returns

Exempt organizations are required to file an annual information return, Form 990 (Return of Organization Exempt From Income Tax), stating specifically the items of gross income, receipts, disbursements, and such other information as the Secretary may prescribe.[192] Exempt from the requirement are churches, their integrated auxiliaries, and conventions or associations of churches; the exclusively religious activities of any religious order; certain institutions whose income is excluded from gross income under section 115; an interchurch organization of local units of a church; certain mission societies; certain church-affiliated elementary and high schools; and certain other organizations, including some that the IRS has relieved from the filing requirement pursuant to its statutory discretionary authority.[193]

An organization that is required to file an information return, but that has gross receipts of less than $200,000 during its taxable year, and total assets of less than $500,000 at the end of its taxable year, may file Form 990–EZ. If an organization normally has gross

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granting relief will not prejudice the interests of the government. Treas. Reg. secs. 301.9100–1 and 301.9100–3.

[190] Treas. Reg. sec. 1.508–1(a)(1).

[191] Sec. 508(d)(2)(B). Contributions made prior to receipt of a favorable determination letter may be deductible prior to the organization's receipt of such favorable determination letter if the organization has timely filed its application to be recognized as tax-exempt. Treas. Reg. secs. 1.508–1(a) and 1.508–2(b)(1)(i)(b).

[192] Sec. 6033(a). An organization that has not received a determination of its tax-exempt status, but that claims tax-exempt status under section 501(a), is subject to the same annual reporting requirements and exceptions as organizations that have received a tax-exemption determination.

[193] Sec. 6033(a)(3); Treas. Reg. secs. 1.6033–2(a)(2)(i) and (g)(1).

receipts of $50,000 or less, it must file Form 990–N ("e-postcard"), if it chooses not to file Form 990 or Form 990–EZ. Private foundations are required to file Form 990–PF rather than Form 990.

Revocation of exempt status

In general

An organization that has received a favorable tax-exemption determination from the IRS generally may continue to rely on the determination as long as "there are no substantial changes in the organization's character, purposes, or methods of operation."[194] A ruling or determination letter concluding that an organization is exempt from tax may, however, be revoked or modified: (1) by notice from the IRS to the organization to which the ruling or determination letter was originally issued; (2) by enactment of legislation or ratification of a tax treaty; (3) by a decision of the United States Supreme Court; (4) by issuance of temporary or final Regulations by the Treasury Department; (5) by issuance of a revenue ruling, a revenue procedure, or other statement in the Internal Revenue Bulletin; or (6) automatically, in the event the organization fails to file a required annual return or notice for three consecutive years (discussed in greater detail below).[195] A revocation or modification of a determination letter or ruling may be retroactive if, for example, there has been a change in the applicable law, the organization omitted or misstated a material fact, or the organization has operated in a manner materially different from that originally represented.[196] Upon revocation of tax-exemption or change in the classification of an organization (e.g., from public charity to private foundation status), the IRS publishes an announcement of such revocation or change in the Internal Revenue Bulletin.

Automatic revocation for failure to file information returns

If an organization fails to file a required Form 990-series return or notice for three consecutive years, the organization's tax-exempt status is automatically revoked.[197] A revocation for failure to file is effective from the date that the Secretary determines was the last day the organization could have timely filed the third required information return or notice. To again be recognized as tax-exempt, the organization must apply to the Secretary for recognition of tax-exemption, irrespective of whether the organization was required to make an application for recognition of tax-exemption in order to gain tax-exemption originally.[198]

If, upon application for tax-exempt status after an automatic revocation for failure to file an information return or notice, the organization shows to the satisfaction of the Secretary reasonable cause for failing to file the required returns or notices, the organization's tax-exempt status may, in the discretion of the Secretary, be reinstated retroactive to the date of revocation.[199] An organization may not challenge under the Code's declaratory judgment procedures

[194] Treas. Reg. sec. 1.501(a)–1(a)(2).
[195] Rev. Proc. 2019–5, sec. 12, 2019–1 I.R.B. 230, at p. 257 (January 2, 2019).
[196] Ibid. at p. 258.
[197] Sec. 6033(j)(1).
[198] Sec. 6033(j)(2).
[199] Sec. 6033(j)(3); Rev. Proc. 2014–11, 2014–3 I.R.B. 411 (January 13, 2014).

(section 7428) a revocation of tax-exemption made for failure to file annual information returns.

The Secretary is authorized to publish a list of organizations whose exempt status is automatically revoked.

REASONS FOR CHANGE

Present law does not require the IRS to notify an organization that already has failed to file a Form 990-series return or notice for two consecutive years that it is at risk of revocation if it fails to file for a third consecutive year. Many of the affected organizations are small and poorly funded, yet face increasing demand for their services from the communities they serve. As a result, revocation can pose a significant financial burden on these organizations and their communities. The Committee therefore believes it is appropriate to require the IRS to notify organizations that are at risk of losing tax-exempt status for failure to file Form 990-series returns or notices and to provide information to help the organization prevent the loss of its tax-exempt status.

EXPLANATION OF PROVISION

The provision requires that the IRS provide notice to an organization that fails to file a Form 990-series return or notice for two consecutive years. The notice must state that the IRS has no record of having received such a return or notice from the organization for two consecutive years and inform the organization about the revocation of the organization's tax-exempt status that will occur if the organization fails to file such a return or notice by the due date for the next such return or notice. The notice must also contain information about how to comply with the annual information return and notice requirements under sections 6033(a)(1) and 6033(i).

EFFECTIVE DATE

The provision applies to failures to file returns or notices for two consecutive years if the return or notice for the second year is required to be filed after December 31, 2019.

C. Revenue Provision

1. INCREASE IN PENALTY FOR FAILURE TO FILE (SEC. 3201 OF THE BILL AND SEC. 6651(a) OF THE CODE)

PRESENT LAW

The Federal tax system is one of "self-assessment," i.e., taxpayers are required to declare their income, expenses, and ultimate tax due, while the IRS has the ability to propose subsequent changes. This voluntary system requires that taxpayers comply with deadlines and adhere to the filing requirements. While taxpayers may obtain extensions of time in which to file their returns, the Federal tax system consists of specific due dates of returns. In order to foster compliance in meeting these deadlines, Congress has enacted a penalty for the failure to timely file tax returns.[200]

A taxpayer who fails to file a tax return on or before its due date is subject to a penalty equal to five percent of the net amount of

[200] See *United States v. Boyle,* 469 U.S. 241, 245 (1985).

tax due for each month that the return is not filed, up to a maximum of 25 percent of the net amount.[201] If the failure to file a return is fraudulent, the taxpayer is subject to a penalty equal to 15 percent of the net amount of tax due for each month the return is not filed, up to a maximum of 75 percent of the net amount.[202] The net amount of tax due is the amount of tax required to be shown on the return reduced by the amount of any part of the tax that is paid on or before the date prescribed for payment of the tax and by the amount of any credits against tax that may be claimed on the return.[203] The penalty will not apply if it is shown that the failure to file was due to reasonable cause and not willful neglect.[204]

If a return is filed more than 60 days after its due date, and unless it is shown that such failure is due to reasonable cause, then the failure to file penalty may not be less than the lesser of $205[205] or 100 percent of the amount required to be shown as tax on the return.[206] If a penalty for failure to file and a penalty for failure to pay tax shown on a return both apply for the same month, the amount of the penalty for failure to file for such month is reduced by the amount of the penalty for failure to pay tax shown on a return.[207] If a return is filed more than 60 days after its due date, then the penalty for failure to pay tax shown on a return may not reduce the penalty for failure to file below the lesser of $205 or 100 percent of the amount required to be shown on the return.[208]

The failure to file penalty applies to all returns required to be filed under subchapter A of Chapter 61 (relating to income tax returns of an individual, fiduciary of an estate or trust, or corporation; self-employment tax returns, and estate and gift tax returns), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), and subchapter A of chapter 53 (relating to machine guns and certain other firearms).[209] The failure to file penalty is adjusted annually to account for inflation. The failure to file penalty does not apply to any failure to pay estimated tax required to be paid by sections 6654 or 6655.[210]

REASONS FOR CHANGE

The Committee notes that the penalties for failing to file tax returns have not been increased in several years. The Committee believes that increasing the penalties will encourage the filing of timely and accurate information returns, which, in turn, will improve overall tax administration.

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[201] Sec. 6651(a)(1).
[202] Sec. 6651(f).
[203] Sec. 6651(b)(1).
[204] Sec. 6651(a)(1).
[205] The $205 amount is adjusted for inflation.
[206] Sec. 6651(a)(1) (flush language). For this minimum penalty to apply, the Tax Court has held, and the IRS acquiesced, that there must be an underpayment of tax. See *Patronik-Holder v. Commissioner,* 100 T.C. 374 (1993) (citing the Conference Report to the Tax Equity and Fiscal Responsibility Act of 1982), AOD 1994–03, 1993–2 C.B. 1.
[207] Sec. 6651(c)(1).
[208] *Ibid.*
[209] Sec. 6651(a)(1).
[210] Sec. 6651(e).

EXPLANATION OF PROVISION

Under the provision, if a return is filed more than 60 days after its due date, then the failure to file penalty may not be less than the lesser of $330 (adjusted for inflation) or 100 percent of the amount required to be shown as tax on the return.

EFFECTIVE DATE

The provision applies to returns with filing due dates (including extensions) after December 31, 2019.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1957, the Taxpayer First Act of 2019, on April 2, 2019.

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 1957, as amended, was ordered favorably reported to the House of Representatives by a voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 1957, as reported.

The bill, as reported, is estimated to increase Federal fiscal year budget receipts by $3 million dollars for the period 2019 through 2029.

ESTIMATED BUDGET EFFECTS OF H.R. 1957,
THE "TAXPAYER FIRST ACT OF 2019,"
AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2019 - 2029

[Millions of Dollars]

Provision	Effective	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-24	2019-29
1. Putting Taxpayers First														
A. Independent Appeals Process														
1. Establishment of Internal Revenue Service Independent Office of Appeals	[1]	*Negligible Revenue Effect*												
B. Improved Service														
1. Comprehensive customer service strategy	DOE	*No Revenue Effect*												
2. IRS Free File Program	DOE	*No Revenue Effect*												
3. Low-income exception for payments otherwise required in connection with a submission of an offer-in-compromise	osa DOE	*No Revenue Effect*												
C. Sensible Enforcement														
1. Internal Revenue Service seizure requirements with respect to structuring transactions	DOE	*Negligible Revenue Effect*												
2. Exclusion of interest received in action to recover property seized by the Internal Revenue Service based on structuring transaction	irooa DOE	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
3. Clarification of equitable relief from joint liability	porfopooa DOE	*Negligible Revenue Effect*												
4. Modification of procedures for issuance of third-party summons	[3]	*Negligible Revenue Effect*												
5. Private debt collection and special compliance personnel program [4]	[5]	---	---	-4	-16	-24	-26	-27	-28	-29	-30	-31	-70	-215
6. Reform of notice of contact of third parties	[6]	*Negligible Revenue Effect*												
7. Modification of authority to issue designated summons	[7]	*Negligible Revenue Effect*												
8. Limitation on access of non-Internal Revenue Service employees to returns and return information	[8]	*Negligible Revenue Effect*												
D. Organizational Modernization														
1. Office of the National Taxpayer Advocate	[9]	*No Revenue Effect*												
2. Modernization of Internal Revenue Service organizational structure	DOE	*No Revenue Effect*												
E. Other Provisions														
1. Return preparation programs for applicable taxpayers	DOE	*No Revenue Effect*												
2. Provision of information regarding low-income taxpayer clinics	DOE	*No Revenue Effect*												

Provision	Effective	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-24	2019-29
3. Notice from IRS regarding closure of Taxpayer Assistance Centers	DOE	*No Revenue Effect*												
4. Rules for seizure and sale of perishable goods restricted to only perishable goods	psa DOE	*Negligible Revenue Effect*												
5. Whistleblower reforms	[10]	*Negligible Revenue Effect*												
6. Customer service information	DOE	*No Revenue Effect*												
7. Misdirected tax refund deposits	DOE	*No Revenue Effect*												
Total of Putting Taxpayers First		**[2]**	**[2]**	**-4**	**-16**	**-24**	**-26**	**-27**	**-28**	**-29**	**-30**	**-31**	**-70**	**-216**
II. 21st Century IRS														
A. Cyber Security and Identity Protection														
1. Public-private partnership to address identity theft refund fraud	DOE	*No Revenue Effect*												
2. Recommendations of Electronic Tax Administration Advisory Committee regarding identity theft refund fraud	DOE	*No Revenue Effect*												
3. Information sharing and analysis center	DOE	*No Revenue Effect*												
4. Compliance by contractors with confidentiality safeguards	dma 12/31/22	*No Revenue Effect*												
5. Report on electronic payments	DOE	*No Revenue Effect*												
6. Identity protection personal identification numbers	DOE	*No Revenue Effect*												
7. Single point of contact for tax-related identity theft victims	DOE	*No Revenue Effect*												
8. Notification of suspected identity theft	[11]	*No Revenue Effect*												
9. Guidelines for stolen identity refund fraud cases	[12]	*No Revenue Effect*												
10. Increased penalty for improper disclosure or use of information by preparers of returns	douo/a DOE	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]
B. Development of Information Technology														
1. Management of Internal Revenue Service information technology	[14]	*No Revenue Effect*												
2. Internet platform for Form 1099 filings	DOE	*No Revenue Effect*												
3. Streamlined critical pay authority for information technology positions	DOE	*No Revenue Effect*												
C. Modernization of Consent-Based Income Verification System														
1. Disclosure of taxpayer information for third-party income verification	DOE	*No Revenue Effect*												
2. Limit redisclosures and uses of consent-based disclosures of tax return information	[15]	*No Revenue Effect*												
D. Expanded Use of Electronic Systems														
1. Electronic filing of returns	DOE	*No Revenue Effect*												
2. Uniform standards for the use of electronic signatures for disclosure authorizations to, and other authorizations of, practitioners	DOE	*No Revenue Effect*												
3. Payment of taxes by debit and credit cards	DOE	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]
4. Authentication of users of electronic services account	180da DOE	*Negligible Revenue Effect*												

Provision	Effective	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-24	2019-29
E. Other Provisions														
1. Repeal of provision regarding certain tax compliance procedures and reports	DOE	*No Revenue Effect*												
2. Comprehensive training strategy	DOE	*No Revenue Effect*												
Total of 21st Century IRS		[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]	[13]
III. Miscellaneous Provisions														
A. Reform of Laws Governing Internal Revenue Service Employees														
1. Prohibition on rehiring any employee of the Internal Revenue Service who was involuntarily separated from service for misconduct	[16]	*Negligible Revenue Effect*												
2. Notification of unauthorized inspection or disclosure of returns and return information	[17]	*No Revenue Effect*												
B. Provisions Relating to Exempt Organizations														
1. Mandatory e-filing by exempt organizations	generally tyba DOE	*No Revenue Effect*												
2. Notice required before revocation of tax exempt status for failure to file return	[18]	*Negligible Revenue Effect*												
C. Increase in Penalty for Failure to File	rtbfa 12/31/19	---	5	21	22	22	23	24	24	25	26	27	93	219
Total of Miscellaneous Provisions		[19]	5	21	22	22	23	24	24	25	26	27	93	219
NET TOTAL		[19]	5	17	6	-2	-3	-3	-4	-4	-4	-4	23	3

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:

dima = disclosures made after
DOE = date of enactment
douo/a = disclosures or uses on or after
irooa = interest received on or after
osa = offers submitted after
porfopooa = petitions or requests filed or pending on or after
psa = property seized after
rtbfa = returns required to be filed after
tyba = taxable years beginning after
180da = 180 days after

[1] Generally effective on the date of enactment, except that access to case files applies to conferences occurring after the date that is one year after the date of enactment.
[2] Loss of less than $500,000.
[3] Effective for summonses issued after the date which is 45 days after the date of enactment.

[4] Estimate includes the following outlay effects:

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019-24	2019-29
Private debt collection and special compliance personnel program	---	---	-4	-16	-24	-26	-27	-28	-29	-30	-31	-70	-215

[5] Generally effective for tax receivables identified by the Secretary (or the Secretary's delegate) after December 31, 2020. The new maximum length of installment agreements is effective for contracts entered into after the date of enactment. The clarification of the use of the special compliance personnel program account is effective for amounts expended after date of enactment.
[6] Effective for notices provided, and contacts of persons made, after the date which is 45 days after the date of the enactment.
[7] Effective for summonses issued after the date which is 45 days after the date of enactment.
[8] Effective for contracts under Internal Revenue Code section 6103(n) in effect on or after the date of enactment.

[Footnotes for the Table continue on the following page]

Footnotes for the Table continued:

[9] Generally effective on the date of enactment except that the provision relating to the salary of the NTA applies to compensation paid to individuals appointed after March 31, 2019.
[10] The modifications made to the disclosure rules apply to disclosures made after the date of enactment. The protections from retaliation are effective on the date of enactment.
[11] Effective for determinations made after the date that is 6 months after the date of enactment.
[12] Effective on the date of enactment, with guidelines to be implemented within one year of the date of enactment.
[13] Gain of less than $500,000.
[14] The proposal is generally effective on the date of enactment. Verification and validation of phase 2 of CADE 2 and the Enterprise Management System are to be completed within one year after the date of enactment. Development of plans for subsequent phases of CADE 2 is to be completed within one year after the date of enactment. Verification and validation of plans for subsequent phases of CADE 2 are to be completed within one year after the date on which the plan for such phase was completed.
[15] Effective for disclosures made after the date which is 180 days after the date of enactment.
[16] The prohibition applies with respect to the hiring of employees after the date of enactment.
[17] Effective for determinations proposed after the date which is 180 days after the date of the enactment.
[18] Effective for failures to file returns or notices for two consecutive years if the return or notice for the second year is required to be filed after December 31, 2019.
[19] Negligible revenue effect.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provision relating to the private debt collection and special compliance personnel program does not involve a new tax expenditure while the revenue-reducing tax provision relating to the exclusion of interest received in an action to recover property seized by the IRS based on a structuring transaction involves a new tax expenditure.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 5, 2019.

Hon. Richard Neal,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1957, the Taxpayer First Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Bayard Meiser.

Sincerely,

Keith Hall,
Director.

Enclosure.

At a Glance

H.R. 1957, Taxpayer First Act of 2019

As ordered reported by the House Committee on Ways and Means on April 2, 2019

Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	-70	-215
Revenues	*	-47	-212
Deficit Effect	*	-23	-3
Spending Subject to Appropriation (Outlays)	n.e.	n.e.	n.e.

Pay-as-you-go procedures apply?	Yes	**Mandate Effects**	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

n.e. = not estimated; * = between -$500,000 and $500,000.

The bill would

- Change the management and oversight of the Internal Revenue Service (IRS) with the aim of improving customer service and the process for assisting taxpayers with appeals; restrict certain IRS enforcement activities, including the use of private debt collectors in certain cases; and modify the agency's organization.
- Aim to combat identity theft and tax refund fraud, create an automated system to verify taxpayer information for authorized users, modernize information technology systems within the IRS, and expand the use of electronic information systems within the IRS.
- Change several provisions in the laws that govern the IRS.
- Increase the penalty for tax returns filed more than 60 days after the due date.

Estimated budgetary effects would primarily stem from

- A restriction on the use of private debt collectors for certain taxpayers.
- An increase in the penalty for tax returns filed 60 days after the due date.
- CBO has not completed an estimate of the bill's costs that are subject to annual appropriation.

The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) are the official estimates for all tax legislation considered by the Congress. CBO therefore incorporates such estimates into its cost estimates of the effects of legislation. Virtually all of the estimates for the provisions of H.R. 1957 were provided by JCT.

Detailed estimate begins on the next page.

Bill summary: H.R. 1957 would change many of the rules that govern the Internal Revenue Service (IRS). The aim would be improving customer service and the process for assisting taxpayers with appeals and to combat identity theft and fraud. Provisions of the bill would restrict certain IRS enforcement activities, modify the agency's organization, change the operations of the U.S. tax court, create an automated system to verify taxpayer information for authorized users, modernize information technology systems in the IRS, and expand the use of electronic information systems within the agency.

Estimated Federal cost: The estimated budgetary effect of H.R. 1957 is shown in Table 1. The costs of the legislation fall within budget function 800 (general government).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1957

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
Increases or Decreases (−) in Revenues													
Title I. Putting Taxpayers First	0	0	−8	−32	−48	−52	−54	−56	−58	−60	−62	−140	−431
Title II. 21st Century IRS	*	*	*	*	*	*	*	*	*	*	*	*	*
Title III. Miscellaneous Provisions	*	5	21	22	22	23	24	24	25	26	27	93	219
Total Revenues	*	5	13	−10	−26	−29	−30	−32	−33	−34	−35	−47	−212
Decreases in Direct Spending													
Title I. Putting Taxpayers First:													
Estimated Budget Authority	0	0	−4	−16	−24	−26	−27	−28	−29	−30	−31	−70	−215
Estimated Outlays	0	0	−4	−16	−24	−26	−27	−28	−29	−30	−31	−70	−215
Net Increase or Decrease (−) in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit	*	−5	−17	−6	−2	3	3	4	4	4	4	−23	−3

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.
Components may not sum to totals because of rounding; * = between −$500,000 and $500,000.

Basis of estimate: The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) are the official estimates for all tax legislation considered by the Congress. CBO therefore incorporates those estimates into its cost estimates of the effects of legislation. Virtually all of the estimates for the provisions of H.R. 1957 were provided by JCT.[1]

Revenues

On net, JCT estimates, enacting the bill would decrease revenues by $212 million.

Title I. Putting Taxpayers First. Title I would change the management and oversight of the IRS to improve customer service and the process of providing taxpayers with assistance for appeals, restrict certain IRS enforcement activities, and modify the agency's organization. JCT estimates that those provisions would, on net, reduce revenues by $431 million over the 2019–2029 period. CBO has not completed an estimate of the bill's costs that are subject to annual appropriation.

Title II. 21st Century IRS. Title II would combat identity theft and tax refund fraud, create an automated system to verify taxpayer information for authorized users, modernize information technology systems within the IRS, and expand the use of electronic information systems within the IRS. JCT estimates that those provisions would increase revenues by less than $500,000 over the 2019–2029 period.

Title III. Miscellaneous Provisions. Title III would make other changes to the laws governing the IRS, change the organization of the tax court, and increase the penalty for a return filed 60 days after its due date. JCT estimates that this provision would increase revenues by $219 million over the 2019–2029 period.

Direct spending

Title 1 of H.R. 1957 would prohibit the IRS from using private debt collectors in certain cases, which would reduce direct spending. Currently, the IRS contracts with private companies to collect delinquent federal taxes. Under those contracts, the IRS may allow businesses to retain up to 25 percent of their collections; another 25 percent is available to the IRS to spend on enforcement. CBO and JCT estimate that repealing the private debt collection authority and allowing the current contracts to expire would reduce direct spending by $215 million over the 2019–2029 period, or 50 percent of the estimated reduction in revenues stemming from this provision.

Spending subject to appropriation

CBO has not completed an estimate of the bill's costs that are subject to annual appropriation.

Uncertainty

These budgetary estimates are uncertain because they rely on underlying projections and other estimates that are uncertain. Spe-

[1] For JCT's estimates of the provisions, which include detail beyond the summary presented below, see Joint Committee on Taxation, *Estimated Revenue Effects of Revenue Provisions of the "Taxpayer First Act of 2019,"* JCX–17–19 (April 2, 2019), https://go.usa.gov/xmxpy.

cifically, they are based in part on CBO's economic projections for the next decade under current law, and on estimates changes in taxpayers' behavior in response to changes in tax rules.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown above in Table 1.

Increase in long-term deficits: JCT estimates that enacting H.R. 1957 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2030.

Mandates: JCT has reviewed H.R. 1957 and determined that it contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Estimate prepared by: Revenues: Staff of the Joint Committee on Taxation and Bayard Meiser; Federal costs: Matthew Pickford; Mandates: Staff of the Joint Committee on Taxation and Andrew Laughlin.

Estimate reviewed by: Joshua Shakin, Chief, Revenue Estimating Unit; Kim Cawley, Chief, Natural and Physical Resources Cost Estimating Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis; John McClelland, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated into the description portions of this report.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI clause 5(b) of the Rules of the House of Representatives provides, in part, that "It shall not be in order to consider a bill, joint resolution, amendment, or conference report carrying a retro-

active Federal income tax rate increase." The Committee has carefully reviewed the bill and states that the bill does not involve any retroactive Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

Section 4022(b) of RRA98 requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code of 1986 and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of RRA98 because the bill contains no provisions that amend the Internal Revenue Code of 1986 and that have "widespread applicability" to individuals or small businesses, within the meaning of the rule.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to section 6104 of title 31, United States Code.

H. Hearings

In compliance with Sec. 103(i) of H. Res. 6 (116th Congress) the following hearing was used to develop or consider H.R. 1957: Subcommittee on Oversight, Committee on Ways and Means, Hearing with the National Taxpayer Advocate on the Tax Filing Season, held on March 7, 2019

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter B—COMPUTATION OF TAXABLE INCOME

* * * * * * *

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

* * * * * * *

SEC. 139H. INTEREST RECEIVED IN ACTION TO RECOVER PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE BASED ON STRUCTURING TRANSACTION.

Gross income shall not include any interest received from the Federal Government in connection with an action to recover property seized by the Internal Revenue Service pursuant to section 5317(c)(2) of title 31, United States Code, by reason of a claimed violation of section 5324 of such title.

* * * * * * *

Subchapter F—EXEMPT ORGANIZATIONS

* * * * * * *

PART VI—POLITICAL ORGANIZATIONS

* * * * * * *

SEC. 527. POLITICAL ORGANIZATIONS.

(a) GENERAL RULE.—A political organization shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) TAX IMPOSED.—A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b).

(c) POLITICAL ORGANIZATION TAXABLE INCOME DEFINED.—

(1) TAXABLE INCOME DEFINED.—For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

(A) the gross income for the taxable year (excluding any exempt function income), over

(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) MODIFICATIONS.—For purposes of this subsection—

(A) there shall be allowed a specific deduction of $100,

(B) no net operating loss deduction shall be allowed under section 172, and

(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) EXEMPT FUNCTION INCOME.—For purposes of this subsection, the term "exempt function income" means any amount received as—

(A) a contribution of money or other property,

(B) membership dues, a membership fee or assessment from a member of the political organization,

(C) proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business, or

(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),

to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) CERTAIN USES NOT TREATED AS INCOME TO CANDIDATE.—For purposes of this title, if any political organization—

(1) contributes any amount to or for the use of any political organization which is treated as exempt from tax under subsection (a) of this section,

(2) contributes any amount to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt from tax under section 501(a), or

(3) deposits any amount in the general fund of the Treasury or in the general fund of any State or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person. No deduction shall be allowed under this title for the contribution or deposit of any amount described in the preceding sentence.

(e) OTHER DEFINITIONS.—For purposes of this section—

(1) POLITICAL ORGANIZATION.—The term "political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) EXEMPT FUNCTION.—The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a).

(3) CONTRIBUTIONS.—The term "contributions" has the meaning given to such term by section 271(b)(2).

(4) EXPENDITURES.—The term "expenditures" has the meaning given to such term by section 271(b)(3).

(5) QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.—

(A) IN GENERAL.—The term "qualified State or local political organization" means a political organization—

(i) all the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

(ii) which is subject to State law that requires the organization to report (and it so reports)—

(I) information regarding each separate expenditure from and contribution to such organization, and

(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

(iii) with respect to which the reports referred to in clause (ii) are (I) made public by the agency with which such reports are filed, and (II) made publicly available for inspection by the organization in the manner described in section 6104(d).

(B) CERTAIN STATE LAW DIFFERENCES DISREGARDED.—An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than $300 greater than the minimum amount required to be reported under subsection (j).

(ii) The State law does not require the organization to identify 1 or more of the following:

(I) The employer of any person who makes contributions to the organization.

(II) The occupation of any person who makes contributions to the organization.

(III) The employer of any person who receives expenditures from the organization.

(IV) The occupation of any person who receives expenditures from the organization.

(V) The purpose of any expenditure of the organization.

(VI) The date any contribution was made to the organization.

(VII) The date of any expenditure of the organization.

(C) DE MINIMIS ERRORS.—An organization shall not fail to be treated as a qualified State or local political organization solely because such organization makes de minimis errors in complying with the State reporting requirements and the public inspection requirements described in subparagraph (A) as long as the organization corrects such errors within a reasonable period after the organization becomes aware of such errors.

(D) PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER.—The term "qualified State or local political organization" shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office—

(i) controls or materially participates in the direction of the organization,

(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

(iii) directs, in whole or in part, disbursements by the organization.

(f) EXEMPT ORGANIZATION, WHICH IS NOT POLITICAL ORGANIZATION, MUST INCLUDE CERTAIN AMOUNTS IN GROSS INCOME.—

(1) IN GENERAL.—If an organization described in section 501(c) which is exempt from tax under section 501(a) expends any amount during the taxable year directly (or through another organization) for an exempt function (within the meaning of subsection (e)(2)), then, notwithstanding any other provision of law, there shall be included in the gross income of such organization for the taxable year, and shall be subject to tax under subsection (b) as if it constituted political organization taxable income, an amount equal to the lesser of—

(A) the net investment income of such organization for the taxable year, or

(B) the aggregate amount so expended during the taxable year for such an exempt function.

(2) NET INVESTMENT INCOME.—For purposes of this subsection, the term "net investment income" means the excess of—

(A) the gross amount of income from interest, dividends, rents, and royalties, plus the excess (if any) of gains from the sale or exchange of assets over the losses from the sale or exchange of assets, over

(B) the deductions allowed by this chapter which are directly connected with the production of the income referred to in subparagraph (A).

For purposes of the preceding sentence, there shall not be taken into account items taken into account for purposes of the tax imposed by section 511 (relating to tax on unrelated business income).

(3) CERTAIN SEPARATE SEGREGATED FUNDS.—For purposes of this subsection and subsection (e)(1), a separate segregated fund (within the meaning of section 610 of title 18 or of any similar State statute, or within the meaning of any State statute which permits the segregation of dues moneys for exempt functions (within the meaning of subsection (e)(2))) which is maintained by an organization described in section 501(c) which is exempt from tax under section 501(a) shall be treated as a separate organization.

(g) TREATMENT OF NEWSLETTER FUNDS.—

(1) IN GENERAL.—For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of paragraph (3)) for nomination or election to, any Federal, State, or local elective public office, for use by such individual exclusively for the preparation and circulation of such individual's newsletter shall, except as provided in paragraph (2), be treated as if such fund constituted a political organization.

(2) ADDITIONAL MODIFICATIONS.—In the case of any fund described in paragraph (1)—

(A) the exempt function shall be only the preparation and circulation of the newsletter, and

(B) the specific deduction provided by subsection (c)(2)(A) shall not be allowed.

(3) CANDIDATE.—For purposes of paragraph (1), the term "candidate" means, with respect to any Federal, State, or local elective public office, an individual who—

(A) publicly announces that he is a candidate for nomination or election to such office, and

(B) meets the qualifications prescribed by law to hold such office.

(h) SPECIAL RULE FOR PRINCIPAL CAMPAIGN COMMITTEES.—

(1) IN GENERAL.—In the case of a political organization, which is a principal campaign committee, paragraph (1) of subsection (b) shall be applied by substituting "the appropriate rates" for "the highest rate".

(2) PRINCIPAL CAMPAIGN COMMITTEE DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term "principal campaign committee" means the political committee designated by a candidate for Congress as his principal campaign committee for purposes of—

(i) section 302(e) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30102(e)), and

(ii) this subsection.

(B) DESIGNATION.—A candidate may have only 1 designation in effect under subparagraph (A)(ii) at any time and such designation—

(i) shall be made at such time and in such manner as the Secretary may prescribe by regulations, and

(ii) once made, may be revoked only with the consent of the Secretary.

Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.

(i) ORGANIZATIONS MUST NOTIFY SECRETARY THAT THEY ARE SECTION 527 ORGANIZATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (5), an organization shall not be treated as an organization described in this section—

(A) unless it has given notice to the Secretary electronically that it is to be so treated, or

(B) if the notice is given after the time required under paragraph (2), the organization shall not be so treated for any period before such notice is given or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given.

(2) TIME TO GIVE NOTICE.—The notice required under paragraph (1) shall be transmitted not later than 24 hours after the date on which the organization is established or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change.

(3) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall include information regarding—

(A) the name and address of the organization (including any business address, if different) and its electronic mailing address,

(B) the purpose of the organization,

(C) the names and addresses of its officers, highly compensated employees, contact person, custodian of records, and members of its Board of Directors,

(D) the name and address of, and relationship to, any related entities (within the meaning of section 168(h)(4)),

(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and

(F) such other information as the Secretary may require to carry out the internal revenue laws.

(4) EFFECT OF FAILURE.—In the case of an organization failing to meet the requirements of paragraph (1) for any period, the taxable income of such organization shall be computed by taking into account any exempt function income (and any deductions directly connected with the production of such income) or, in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection. For purposes of the preceding sentence, the term "exempt function income" means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.

(5) EXCEPTIONS.—This subsection shall not apply to any organization—

(A) to which this section applies solely by reason of subsection (f)(1),

(B) which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year, or

(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.

(6) COORDINATION WITH OTHER REQUIREMENTS.—This subsection shall not apply to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) as a political committee.

(j) REQUIRED DISCLOSURE OF EXPENDITURES AND CONTRIBUTIONS.—

(1) PENALTY FOR FAILURE.—In the case of—

(A) a failure to make the required disclosures under paragraph (2) at the time and in the manner prescribed therefor, or

(B) a failure to include any of the information required to be shown by such disclosures or to show the correct information,

there shall be paid by the organization an amount equal to the rate of tax specified in subsection (b)(1) multiplied by the amount to which the failure relates. For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).

(2) REQUIRED DISCLOSURE.—A political organization which accepts a contribution, or makes an expenditure, for an exempt

function during any calendar year shall file with the Secretary either—

(A)(i) in the case of a calendar year in which a regularly scheduled election is held—

(I) quarterly reports, beginning with the first quarter of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the fifteenth day after the last day of each calendar quarter, except that the report for the quarter ending on December 31 of such calendar year shall be filed not later than January 31 of the following calendar year,

(II) a pre-election report, which shall be filed not later than the twelfth day before (or posted by registered or certified mail not later than the fifteenth day before) any election with respect to which the organization makes a contribution or expenditure, and which shall be complete as of the twentieth day before the election, and

(III) a post-general election report, which shall be filed not later than the thirtieth day after the general election and which shall be complete as of the twentieth day after such general election, and

(ii) in the case of any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year, or

(B) monthly reports for the calendar year, beginning with the first month of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the twentieth day after the last day of the month and shall be complete as if the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i)(II), a post-general election report shall be filed in accordance with subparagraph (A)(i)(III), and a year end report shall be filed not later than January 31 of the following calendar year.

(3) CONTENTS OF REPORT.—A report required under paragraph (2) shall contain the following information:

(A) The amount, date, and purpose of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds $500 and the name and address of the person (in the case of an individual, including the occupation and name of employer of such individual).

(B) The name and address (in the case of an individual, including the occupation and name of employer of such individual) of all contributors which contributed an aggregate amount of $200 or more to the organization during

the calendar year and the amount and date of the contribution.

Any expenditure or contribution disclosed in a previous reporting period is not required to be included in the current reporting period.

(4) CONTRACTS TO SPEND OR CONTRIBUTE.—For purposes of this subsection, a person shall be treated as having made an expenditure or contribution if the person has contracted or is otherwise obligated to make the expenditure or contribution.

(5) COORDINATION WITH OTHER REQUIREMENTS.—This subsection shall not apply—

(A) to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) as a political committee,

(B) to any State or local committee of a political party or political committee of a State or local candidate,

(C) to any organization which is a qualified State or local political organization,

(D) to any organization which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year,

(E) to any organization to which this section applies solely by reason of subsection (f)(1), or

(F) with respect to any expenditure which is an independent expenditure (as defined in section 301 of such Act).

(6) ELECTION.—For purposes of this subsection, the term "election" means—

(A) a general, special, primary, or runoff election for a Federal office,

(B) a convention or caucus of a political party which has authority to nominate a candidate for Federal office,

(C) a primary election held for the selection of delegates to a national nominating convention of a political party, or

(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

(7) ELECTRONIC FILING.—Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form [if the organization has, or has reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in such calendar year].

(k) PUBLIC AVAILABILITY OF NOTICES AND REPORTS.—

(1) IN GENERAL.—The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

(2) ACCESS.—The Secretary shall make the entire database of notices and reports which are made available to the public under paragraph (1) searchable by the following items (to the extent the items are required to be included in the notices and reports):

(A) Names, States, zip codes, custodians of records, directors, and general purposes of the organizations.
(B) Entities related to the organizations.
(C) Contributors to the organizations.
(D) Employers of such contributors.
(E) Recipients of expenditures by the organizations.
(F) Ranges of contributions and expenditures.
(G) Time periods of the notices and reports.

Such database shall be downloadable.

(l) AUTHORITY TO WAIVE.—The Secretary may waive all or any portion of the—

(1) tax assessed on an organization by reason of the failure of the organization to comply with the requirements of subsection (i), or

(2) amount imposed under subsection (j) for a failure to comply with the requirements thereof,

on a showing that such failure was due to reasonable cause and not due to willful neglect.

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—RETURNS AND RECORDS

PART II—TAX RETURNS OR STATEMENTS

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Subpart A—GENERAL REQUIREMENT

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SEC. 6011. GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST.

(a) GENERAL RULE.—When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) IDENTIFICATION OF TAXPAYER.—The Secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

(c) RETURNS, ETC., OF DISCS AND FORMER DISCS AND FORMER FSC'S.—

(1) RECORDS AND INFORMATION.—A DISC, former DISC, or former FSC (as defined in section 922 as in effect before its re-

peal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000) shall for the taxable year—

(A) furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and

(B) keep such records, as may be required by regulations prescribed by the Secretary.

(2) RETURNS.—A DISC shall file for the taxable year such returns as may be prescribed by the Secretary by forms or regulations.

(d) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate.

(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC MEDIA, ETC..—

(1) IN GENERAL.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. Except as provided in paragraph (3), the Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

(2) REQUIREMENTS OF REGULATIONS.—In prescribing regulations under paragraph (1), the Secretary—

(A) shall not require any person to file returns on magnetic media unless such person is required to file at least **[**250**]** *the applicable number of* returns during the calendar year, and

(B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations.

(3) SPECIAL RULE FOR TAX RETURN PREPARERS.—

(A) IN GENERAL.—The Secretary shall require that any individual income tax return prepared by a tax return preparer be filed on magnetic media if—

(i) such return is filed by such tax return preparer, and

(ii) such tax return preparer is a specified tax return preparer for the calendar year during which such return is filed.

(B) SPECIFIED TAX RETURN PREPARER.—For purposes of this paragraph, the term "specified tax return preparer" means, with respect to any calendar year, any tax return preparer unless such preparer reasonably expects to file 10 or fewer individual income tax returns during such calendar year.

(C) INDIVIDUAL INCOME TAX RETURN.—For purposes of this paragraph, the term "individual income tax return" means any return of the tax imposed by subtitle A on individuals, estates, or trusts.

(D) EXCEPTION FOR CERTAIN PREPARERS LOCATED IN AREAS WITHOUT INTERNET ACCESS.—The Secretary may waive the requirement of subparagraph (A) if the Secretary determines, on the basis of an application by the tax return preparer, that the preparer cannot meet such requirement by reason of being located in a geographic area which does not have access to internet service (other than dial-up or satellite service).

(4) SPECIAL RULE FOR RETURNS FILED BY FINANCIAL INSTITUTIONS WITH RESPECT TO WITHHOLDING ON FOREIGN TRANSFERS.—The numerical limitation under paragraph (2)(A) shall not apply to any return filed by a financial institution (as defined in section 1471(d)(5)) with respect to tax for which such institution is made liable under section 1461 or 1474(a).

[(5) SPECIAL RULES FOR PARTNERSHIPS.—

[(A) PARTNERSHIPS PERMITTED TO BE REQUIRED TO FILE ON MAGNETIC MEDIA.—In the case of a partnership, paragraph (2)(A) shall be applied by substituting for "250" the following amount:

[(i) In the case of returns and statements relating to calendar year 2018, "200".

[(ii) In the case of returns and statements relating to calendar year 2019, "150".

[(iii) In the case of returns and statements relating to calendar year 2020, "100".

[(iv) In the case of returns and statements relating to calendar year 2021, "50".

[(v) In the case of returns and statements relating to calendar years after 2021, "20".

[(B) PARTNERSHIPS REQUIRED TO FILE ON MAGNETIC MEDIA.—Notwithstanding subparagraph (A) and paragraph (2)(A), the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.]

(5) APPLICABLE NUMBER.—

(A) IN GENERAL.—For purposes of paragraph (2)(A), the applicable number shall be—

(i) except as provided in subparagraph (B), in the case of calendar years before 2021, 250,

(ii) in the case of calendar year 2021, 100, and

(iii) in the case of calendar years after 2021, 10.

(B) SPECIAL RULE FOR PARTNERSHIPS FOR 2018, 2019, 2020, AND 2021.—In the case of a partnership, for any calendar year before 2022, the applicable number shall be—

(i) in the case of calendar year 2018, 200,

(ii) in the case of calendar year 2019, 150,

(iii) in the case of calendar year 2020, 100, and

(iv) in the case of calendar year 2021, 50.

(6) PARTNERSHIPS REQUIRED TO FILE ON MAGNETIC MEDIA.—Notwithstanding paragraph (2)(A), the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.

(f) PROMOTION OF ELECTRONIC FILING.—

(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administra-

tion programs, as they become available, through the use of mass communications and other means.

(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.

(g) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.

(h) INCOME, ESTATE, AND GIFT TAXES.—For requirement that returns of income, estate, and gift taxes be made whether or not there is tax liability, see subparts B and C.

Subpart B—INCOME TAX RETURNS

* * * * * * *

SEC. 6015. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

(a) IN GENERAL.—Notwithstanding section 6013(d)(3)—

(1) an individual who has made a joint return may elect to seek relief under the procedures prescribed under subsection (b); and

(2) if such individual is eligible to elect the application of subsection (c), such individual may, in addition to any election under paragraph (1), elect to limit such individual's liability for any deficiency with respect to such joint return in the manner prescribed under subsection (c).

Any determination under this section shall be made without regard to community property laws.

(b) PROCEDURES FOR RELIEF FROM LIABILITY APPLICABLE TO ALL JOINT FILERS.—

(1) IN GENERAL.—Under procedures prescribed by the Secretary, if—

(A) a joint return has been made for a taxable year;

(B) on such return there is an understatement of tax attributable to erroneous items of one individual filing the joint return;

(C) the other individual filing the joint return establishes that in signing the return he or she did not know, and had no reason to know, that there was such understatement;

(D) taking into account all the facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for such taxable year attributable to such understatement; and

(E) the other individual elects (in such form as the Secretary may prescribe) the benefits of this subsection not later than the date which is 2 years after the date the Secretary has begun collection activities with respect to the individual making the election,

then the other individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement.

(2) APPORTIONMENT OF RELIEF.—If an individual who, but for paragraph (1)(C), would be relieved of liability under paragraph (1), establishes that in signing the return such individual did not know, and had no reason to know, the extent of such understatement, then such individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent that such liability is attributable to the portion of such understatement of which such individual did not know and had no reason to know.

(3) UNDERSTATEMENT.—For purposes of this subsection, the term "understatement" has the meaning given to such term by section 6662(d)(2)(A).

(c) PROCEDURES TO LIMIT LIABILITY FOR TAXPAYERS NO LONGER MARRIED OR TAXPAYERS LEGALLY SEPARATED OR NOT LIVING TOGETHER.—

(1) IN GENERAL.—Except as provided in this subsection, if an individual who has made a joint return for any taxable year elects the application of this subsection, the individual's liability for any deficiency which is assessed with respect to the return shall not exceed the portion of such deficiency properly allocable to the individual under subsection (d).

(2) BURDEN OF PROOF.—Except as provided in subparagraph (A)(ii) or (C) of paragraph (3), each individual who elects the application of this subsection shall have the burden of proof with respect to establishing the portion of any deficiency allocable to such individual.

(3) ELECTION.—

(A) INDIVIDUALS ELIGIBLE TO MAKE ELECTION.—

(i) IN GENERAL.—An individual shall only be eligible to elect the application of this subsection if—

(I) at the time such election is filed, such individual is no longer married to, or is legally separated from, the individual with whom such individual filed the joint return to which the election relates; or

(II) such individual was not a member of the same household as the individual with whom such joint return was filed at any time during the 12-month period ending on the date such election is filed.

(ii) CERTAIN TAXPAYERS INELIGIBLE TO ELECT.—If the Secretary demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by such individuals, an election under this subsection by either individual shall be invalid (and section 6013(d)(3) shall apply to the joint return).

(B) TIME FOR ELECTION.—An election under this subsection for any taxable year may be made at any time after a deficiency for such year is asserted but not later than 2 years after the date on which the Secretary has begun collection activities with respect to the individual making the election.

(C) ELECTION NOT VALID WITH RESPECT TO CERTAIN DEFICIENCIES.—If the Secretary demonstrates that an indi-

vidual making an election under this subsection had actual knowledge, at the time such individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (d), such election shall not apply to such deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge establishes that such individual signed the return under duress.

(4) LIABILITY INCREASED BY REASON OF TRANSFERS OF PROPERTY TO AVOID TAX.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the portion of the deficiency for which the individual electing the application of this subsection is liable (without regard to this paragraph) shall be increased by the value of any disqualified asset transferred to the individual.

(B) DISQUALIFIED ASSET.—For purposes of this paragraph—

(i) IN GENERAL.—The term "disqualified asset" means any property or right to property transferred to an individual making the election under this subsection with respect to a joint return by the other individual filing such joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

(ii) PRESUMPTION.—

(I) IN GENERAL.—For purposes of clause (i), except as provided in subclause (II), any transfer which is made after the date which is 1 year before the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* is sent shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

(II) EXCEPTIONS.—Subclause (I) shall not apply to any transfer pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree or to any transfer which an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

(d) ALLOCATION OF DEFICIENCY.—For purposes of subsection (c)—

(1) IN GENERAL.—The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to such deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

(2) SEPARATE TREATMENT OF CERTAIN ITEMS.—If a deficiency (or portion thereof) is attributable to—

(A) the disallowance of a credit; or

(B) any tax (other than tax imposed by section 1 or 55) required to be included with the joint return;

and such item is allocated to one individual under paragraph (3), such deficiency (or portion) shall be allocated to such individual. Any such item shall not be taken into account under paragraph (1).

(3) ALLOCATION OF ITEMS GIVING RISE TO THE DEFICIENCY.—For purposes of this subsection—

(A) IN GENERAL.—Except as provided in paragraphs (4) and (5), any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

(B) EXCEPTION WHERE OTHER SPOUSE BENEFITS.—Under rules prescribed by the Secretary, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

(C) EXCEPTION FOR FRAUD.—The Secretary may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of one or both individuals.

(4) LIMITATIONS ON SEPARATE RETURNS DISREGARDED.—If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, such disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately. A similar rule shall apply for purposes of section 86.

(5) CHILD'S LIABILITY.—If the liability of a child of a taxpayer is included on a joint return, such liability shall be disregarded in computing the separate liability of either spouse and such liability shall be allocated appropriately between the spouses.

(e) PETITION FOR REVIEW BY TAX COURT.—

(1) IN GENERAL.—In the case of an individual against whom a deficiency has been asserted and who elects to have subsection (b) or (c) apply, or in the case of an individual who requests equitable relief under subsection (f)—

(A) IN GENERAL.—In addition to any other remedy provided by law, the individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed—

(i) at any time after the earlier of—

(I) the date the Secretary mails, by certified or registered mail to the taxpayer's last known address, notice of the Secretary's final determination of relief available to the individual, or

(II) the date which is 6 months after the date such election is filed or request is made with the Secretary, and

(ii) not later than the close of the 90th day after the date described in clause (i)(I).

(B) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

(i) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subsection (b) or (c) or requesting equitable relief under subsection (f) for collection of any assessment to which such election or request relates until the close of the 90th day referred to in subparagraph (A)(ii), or, if a petition has been filed with the Tax Court under subparagraph (A), until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

(ii) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such levy or proceeding during the time the prohibition under clause (i) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under subparagraph (A) and then only in respect of the amount of the assessment to which the election under subsection (b) or (c) relates or to which the request under subsection (f) relates.

(2) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended—

(A) for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter, and

(B) if a waiver under paragraph (5) is made, from the date the claim for relief was filed until 60 days after the waiver is filed with the Secretary.

(3) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

(A) the Tax Court shall lose jurisdiction of the individual's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund, and

(B) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.

(4) NOTICE TO OTHER SPOUSE.—The Tax Court shall establish rules which provide the individual filing a joint return but not making the election under subsection (b) or (c) or the request for equitable relief under subsection (f) with adequate notice and an opportunity to become a party to a proceeding under either such subsection.

(5) WAIVER.—An individual who elects the application of subsection (b) or (c) or who requests equitable relief under subsection (f) (and who agrees with the Secretary's determination

of relief) may waive in writing at any time the restrictions in paragraph (1)(B) with respect to collection of the outstanding assessment (whether or not a notice of the Secretary's final determination of relief has been mailed).

(6) SUSPENSION OF RUNNING OF PERIOD FOR FILING PETITION IN TITLE 11 CASES.—In the case of a person who is prohibited by reason of a case under title 11, United States Code, from filing a petition under paragraph (1)(A) with respect to a final determination of relief under this section, the running of the period prescribed by such paragraph for filing such a petition with respect to such final determination shall be suspended for the period during which the person is so prohibited from filing such a petition, and for 60 days thereafter.

(7) STANDARD AND SCOPE OF REVIEW.—Any review of a determination made under this section shall be reviewed de novo by the Tax Court and shall be based upon—

(A) the administrative record established at the time of the determination, and

(B) any additional newly discovered or previously unavailable evidence.

[(f) EQUITABLE RELIEF.—Under procedures prescribed by the Secretary, if—

[(1) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either); and

[(2) relief is not available to such individual under subsection (b) or (c),

the Secretary may relieve such individual of such liability.]

(f) EQUITABLE RELIEF.—

(1) IN GENERAL.—Under procedures prescribed by the Secretary, if—

(A) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either), and

(B) relief is not available to such individual under subsection (b) or (c),

the Secretary may relieve such individual of such liability.

(2) LIMITATION.—A request for equitable relief under this subsection may be made with respect to any portion of any liability that—

(A) has not been paid, provided that such request is made before the expiration of the applicable period of limitation under section 6502, or

(B) has been paid, provided that such request is made during the period in which the individual could submit a timely claim for refund or credit of such payment.

(g) CREDITS AND REFUNDS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), notwithstanding any other law or rule of law (other than section 6511, 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

(2) RES JUDICATA.—In the case of any election under subsection (b) or (c) or of any request for equitable relief under subsection (f), if a decision of a court in any prior proceeding

for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall not apply if the court determines that the individual participated meaningfully in such prior proceeding.

(3) CREDIT AND REFUND NOT ALLOWED UNDER SUBSECTION (C).—No credit or refund shall be allowed as a result of an election under subsection (c).

(h) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this section, including—

(1) regulations providing methods for allocation of items other than the methods under subsection (d)(3); and

(2) regulations providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under subsection (b) or (c) or a request for equitable relief made under subsection (f) by the other individual filing the joint return.

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PART III—INFORMATION RETURNS

* * * * * * *

Subpart A—INFORMATION CONCERNING PERSONS SUBJECT TO SPECIAL PROVISIONS

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SEC. 6033. RETURNS BY EXEMPT ORGANIZATIONS.

(a) ORGANIZATIONS REQUIRED TO FILE.—

(1) IN GENERAL.—Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) BEING A PARTY TO CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

(A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and

(B) the identity of any other party to such transaction which is known by such tax-exempt entity.

(3) EXCEPTIONS FROM FILING.—

(A) MANDATORY EXCEPTIONS.—Paragraph (1) shall not apply to—

(i) churches, their integrated auxiliaries, and conventions or associations of churches,

(ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than $5,000, or

(iii) the exclusively religious activities of any religious order.

(B) DISCRETIONARY EXCEPTIONS.—The Secretary may relieve any organization required under paragraph (1) (other than an organization described in section 509(a)(3)) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) CERTAIN ORGANIZATIONS.—The organizations referred to in subparagraph (A)(ii) are—

(i) a religious organization described in section 501(c)(3);

(ii) an educational organization described in section 170(b)(1)(A)(ii);

(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) an organization described in section 501(c)(8); and

(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3).—Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary may by forms or regulations prescribe, setting forth—

(1) its gross income for the year,

(2) its expenses attributable to such income and incurred within the year,

(3) its disbursements within the year for the purposes for which it is exempt,

(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees,

(7) the compensation and other payments made during the year to each individual described in paragraph (6),

(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) the lobbying expenditures (as defined in section 4911(c)(1)),

(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)),

(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

(A) diversion of funds from the organization's exempt purpose, or

(B) misallocation of revenues or expenses,

(10) the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):

(A) section 4911 (relating to tax on excess expenditures to influence legislation),

(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations),

(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded, and

(D) section 4959 (relating to taxes on failures by hospital organizations),

(11) the respective amounts (if any) of—

(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section,

except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,

(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

(13) such information with respect to disqualified persons as the Secretary may prescribe,

(14) such information as the Secretary may require with respect to disaster relief activities,

(15) in the case of an organization to which the requirements of section 501(r) apply for the taxable year—

(A) a description of how the organization is addressing the needs identified in each community health needs assessment conducted under section 501(r)(3) and a description of any such needs that are not being addressed together with the reasons why such needs are not being addressed, and

(B) the audited financial statements of such organization (or, in the case of an organization the financial statements of which are included in a consolidated financial statement with other organizations, such consolidated financial statement), and

(16) such other information for purposes of carrying out the internal revenue laws as the Secretary may require.

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979, and

(2) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed $1,000.

(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a).

(e) SPECIAL RULES RELATING TO LOBBYING ACTIVITIES.—

(1) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—If this subsection applies to an organization for any taxable year, such organization—

(i) shall include on any return required to be filed under subsection (a) for such year information setting forth the total expenditures of the organization to which section 162(e)(1) applies and the total amount of the dues or other similar amounts paid to the organization to which such expenditures are allocable, and

(ii) except as provided in paragraphs (2)(A)(i) and (3), shall, at the time of assessment or payment of such dues or other similar amounts, provide notice to each person making such payment which contains a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable.

(B) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—

(i) IN GENERAL.—This subsection shall apply to any organization which is exempt from taxation under section 501 other than an organization described in section 501(c)(3).

(ii) SPECIAL RULE FOR IN-HOUSE EXPENDITURES.—This subsection shall not apply to the in-house expenditures (within the meaning of section 162(e)(4)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

(iii) COORDINATION WITH SECTION 527(F).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).

(C) ALLOCATION.—For purposes of this paragraph—

(i) IN GENERAL.—Expenditures to which section 162(e)(1) applies shall be treated as paid out of dues or other similar amounts to the extent thereof.

(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—If expenditures to which section 162(e)(1) applies exceed the dues or other similar amounts for any taxable year, such excess shall be treated as expenditures to which section 162(e)(1) applies which are paid or incurred by the organization during the following taxable year.

(2) TAX IMPOSED WHERE ORGANIZATION DOES NOT NOTIFY.—

(A) IN GENERAL.—If an organization—

(i) elects not to provide the notices described in paragraph (1)(A) for any taxable year, or

(ii) fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies (determined on the basis of actual amounts rath-

er than the reasonable estimates under paragraph (1)(A)(ii)),

then there is hereby imposed on such organization for such taxable year a tax in an amount equal to the product of the highest rate of tax imposed by section 11 for the taxable year and the aggregate amount not included in such notices by reason of such election or failure.

(B) WAIVER WHERE FUTURE ADJUSTMENTS MADE.—The Secretary may waive the tax imposed by subparagraph (A)(ii) for any taxable year if the organization agrees to adjust its estimates under paragraph (1)(A)(ii) for the following taxable year to correct any failures.

(C) TAX TREATED AS INCOME TAX.—For purposes of this title, the tax imposed by subparagraph (A) shall be treated in the same manner as a tax imposed by chapter 1 (relating to income taxes).

(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—Paragraph (1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e).

(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization, and

(2) in the case of the first such return filed by such an organization after submitting a notice to the Secretary under section 506(a), such information as the Secretary shall by regulation require in support of the organization's treatment as an organization described in section 501(c)(4).

(g) RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.—

(1) IN GENERAL.—This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of $25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting "$100,000" for "$25,000".

(2) ANNUAL RETURNS.—Political organizations described in paragraph (1) shall file an annual return—

(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

(3) MANDATORY EXCEPTIONS FROM FILING.—Paragraph (2) shall not apply to an organization—

(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

(B) which is a caucus or association of State or local officials,

(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or

(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

(4) DISCRETIONARY EXCEPTION.—The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),

(2) any loans made to each such controlled entity, and

(3) any transfers of funds between such controlling organization and each such controlled entity.

(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

(1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—

(A) the legal name of the organization,

(B) any name under which such organization operates or does business,

(C) the organization's mailing address and Internet web site address (if any),

(D) the organization's taxpayer identification number,

(E) the name and address of a principal officer, and

(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

(2) upon the termination of the existence of the organization, shall furnish notice of such termination.

(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

(1) IN GENERAL.—**[**If an organization**]**

(A) NOTICE.—If an organization described in subsection (a)(1) or (i) fails to file the annual return or notice required under either subsection for 2 consecutive years, the Secretary shall notify the organization—

(i) that the Internal Revenue Service has no record of such a return or notice from such organization for 2 consecutive years, and

(ii) about the revocation that will occur under subparagraph (B) if the organization fails to file such a return or notice by the due date for the next such return or notice required to be filed.

The notification under the preceding sentence shall include information about how to comply with the filing requirements under subsections (a)(1) and (i).

(B) REVOCATION.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.

(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.

(l) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

(1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,

(2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

(3) certify that the organization meets the requirements of section 509(a)(3)(C).

(m) ADDITIONAL INFORMATION REQUIRED FROM CO–OP INSURERS.—An organization described in section 501(c)(29) shall include on the return required under subsection (a) the following information:

(1) The amount of the reserves required by each State in which the organization is licensed to issue qualified health plans.

(2) The amount of reserves on hand.

(n) MANDATORY ELECTRONIC FILING.—Any organization required to file a return under this section shall file such return in electronic form.

[(n)**]** *(o)* CROSS REFERENCES.—For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(c).

For provisions relating to information required in connection with certain plans of deferred compensation, see section 6058.

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PART IV—SIGNING AND VERIFYING OF RETURNS AND OTHER DOCUMENTS

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SEC. 6061. SIGNING OF RETURNS AND OTHER DOCUMENTS.

(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and sections 6062 and 6063, any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary.

(b) ELECTRONIC SIGNATURES.—

(1) IN GENERAL.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may—

(A) waive the requirement of a signature for; or

(B) provide for alternative methods of signing or subscribing,

a particular type or class of return, declaration, statement, or other document required or permitted to be made or written under internal revenue laws and regulations.

(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1)(B) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed or subscribed.

[(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any waiver

of the signature requirements or any method adopted under paragraph (1).]

(3) PUBLISHED GUIDANCE.—

(A) IN GENERAL.—The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements or any method adopted under paragraph (1).

(B) ELECTRONIC SIGNATURES FOR DISCLOSURE AUTHORIZATIONS TO, AND OTHER AUTHORIZATIONS OF, PRACTITIONERS.—Not later than 6 months after the date of the enactment of this subparagraph, the Secretary shall publish guidance to establish uniform standards and procedures for the acceptance of taxpayers' signatures appearing in electronic form with respect to any request for disclosure of a taxpayer's return or return information under section 6103(c) to a practitioner or any power of attorney granted by a taxpayer to a practitioner.

(C) PRACTITIONER.—For purposes of subparagraph (B), the term "practitioner" means any individual in good standing who is regulated under section 330 of title 31, United States Code.

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Subchapter B—MISCELLANEOUS PROVISIONS

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SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State, any local law enforcement agency receiving information under subsection (i)(1)(C) or (7)(A), any local child support enforcement agency, or any local agency administering a program listed in subsection (*l*)(7)(D) who has or had access to returns or return information under this section or section 6104(c), and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under *subsection (c),* subsection (e)(1)(D)(iii), [subsection (k)(10)] *paragraph (10), (13), or (14) of subsection (k)*, paragraph (6), (10), (12), (16), (19), (20), or (21) of subsection (*l*), paragraph (2) or (4)(B) of subsection (m), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

(b) DEFINITIONS.—For purposes of this section—

(1) RETURN.—The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supple-

ment thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) RETURN INFORMATION.—The term "return information" means—

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and

(D) any agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

(3) TAXPAYER RETURN INFORMATION.—The term "taxpayer return information" means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

(4) TAX ADMINISTRATION.—The term "tax administration"—

(A) means—

(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

(5) STATE.—

(A) IN GENERAL.—The term "State" means—

(i) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands,

(ii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any municipality—

(I) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

(II) which imposes a tax on income or wages, and

(III) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure, and

(iii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any governmental entity—

(I) which is formed and operated by a qualified group of municipalities, and

(II) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.

(B) REGIONAL INCOME TAX AGENCIES.—For purposes of subparagraph (A)(iii)—

(i) QUALIFIED GROUP OF MUNICIPALITIES.—The term "qualified group of municipalities" means, with respect to any governmental entity, 2 or more municipalities—

(I) each of which imposes a tax on income or wages,

(II) each of which, under the authority of a State statute, administers the laws relating to the imposition of such taxes through such entity, and

(III) which collectively have a population in excess of 250,000 (as determined under the most recent decennial United States census data available).

(ii) REFERENCES TO STATE LAW, ETC..—For purposes of applying subparagraph (A)(iii) to the subsections referred to in such subparagraph, any reference in such subsections to State law, proceedings, or tax returns shall be treated as references to the law, proceedings, or tax returns, as the case may be, of the municipalities which form and operate the governmental entity referred to in such subparagraph.

(iii) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a governmental entity referred to in subparagraph (A)(iii) unless such entity, to the satisfaction of the Secretary—

(I) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of sub-

section (p)(4)) to protect the confidentiality of such returns or return information,

(II) agrees to conduct an on-site review every 3 years (or a mid-point review in the case of contracts or agreements of less than 3 years in duration) of each contractor or other agent to determine compliance with such requirements,

(III) submits the findings of the most recent review conducted under subclause (II) to the Secretary as part of the report required by subsection (p)(4)(E), and

(IV) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subclause (IV) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this clause shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration and a rule similar to the rule of subsection (p)(8)(B) shall apply for purposes of this clause.

(6) TAXPAYER IDENTITY.—The term "taxpayer identity" means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

(7) INSPECTION.—The terms "inspected" and "inspection" mean any examination of a return or return information.

(8) DISCLOSURE.—The term "disclosure" means the making known to any person in any manner whatever a return or return information.

(9) FEDERAL AGENCY.—The term "Federal agency" means an agency within the meaning of section 551(1) of title 5, United States Code.

(10) CHIEF EXECUTIVE OFFICER.—The term "chief executive officer" means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.

(11) TERRORIST INCIDENT, THREAT, OR ACTIVITY.—The term "terrorist incident, threat, or activity" means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).

(c) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that

such disclosure would seriously impair Federal tax administration. *Persons designated by the taxpayer under this subsection to receive return information shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer.*

(d) DISCLOSURE TO STATE TAX OFFICIALS AND STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—

(1) IN GENERAL.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

(2) DISCLOSURE TO STATE AUDIT AGENCIES.—

(A) IN GENERAL.—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

(B) STATE AUDIT AGENCY.—For purposes of subparagraph (A), the term "State audit agency" means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.

(3) EXCEPTION FOR REIMBURSEMENT UNDER SECTION 7624.—Nothing in this section shall be construed to prevent the Secretary from disclosing to any State or local law enforcement agency which may receive a payment under section 7624 the amount of the recovered taxes with respect to which such a payment may be made.

(4) AVAILABILITY AND USE OF DEATH INFORMATION.—

(A) IN GENERAL.—No returns or return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or any legal representative thereof) during any period during which a contract meeting the

requirements of subparagraph (B) is not in effect between such State and the Secretary of Health and Human Services.

(B) CONTRACTUAL REQUIREMENTS.—A contract meets the requirements of this subparagraph if—

(i) such contract requires the State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it, and

(ii) such contract does not include any restriction on the use of information obtained by such Secretary pursuant to such contract, except that such contract may provide that such information is only to be used by the Secretary (or any other Federal agency) for purposes of ensuring that Federal benefits or other payments are not erroneously paid to deceased individuals.

Any information obtained by the Secretary of Health and Human Services under such a contract shall be exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title 5.

(C) SPECIAL EXCEPTION.—The provisions of subparagraph (A) shall not apply to any State which on July 1, 1993, was not, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it.

(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—

(A) IN GENERAL.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.

(B) TERMINATION.—The Secretary may not make any disclosure under this paragraph after December 31, 2007.

(6) LIMITATION ON DISCLOSURE REGARDING REGIONAL INCOME TAX AGENCIES TREATED AS STATES.—For purposes of paragraph (1), inspection by or disclosure to an entity described in subsection (b)(5)(A)(iii) shall be for the purpose of, and only to the extent necessary in, the administration of the laws of the member municipalities in such entity relating to the imposition of a tax on income or wages. Such entity may not redisclose any return or return information received pursuant to paragraph (1) to any such member municipality.

(e) DISCLOSURE TO PERSONS HAVING MATERIAL INTEREST.—

(1) IN GENERAL.—The return of a person shall, upon written request, be open to inspection by or disclosure to—

(A) in the case of the return of an individual—

(i) that individual,

(ii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513; or

(iii) the child of that individual (or such child's legal representative) to the extent necessary to comply with the provisions of section 1(g);

(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

(D) in the case of the return of a corporation or a subsidiary thereof—

(i) any person designated by resolution of its board of directors or other similar governing body,

(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,

(iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,

(iv) if the corporation was an S corporation, any person who was a shareholder during any part of the period covered by such return during which an election under section 1362(a) was in effect, or

(v) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;

(E) in the case of the return of an estate—

(i) the administrator, executor, or trustee of such estate, and

(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and

(F) in the case of the return of a trust—

(i) the trustee or trustees, jointly or separately, and

(ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will be affected by information contained therein.

(2) INCOMPETENCY.—If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

(3) DECEASED INDIVIDUALS.—The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

(A) the administrator, executor, or trustee of his estate, and

(B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

(4) TITLE 11 CASES AND RECEIVERSHIP PROCEEDINGS.—If—

(A) there is a trustee in a title 11 case in which the debtor is the person with respect to whom the return is filed, or

(B) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver,

such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such trustee or receiver, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

(5) INDIVIDUAL'S TITLE 11 CASE.—

(A) IN GENERAL.—In any case to which section 1398 applies (determined without regard to section 1398(b)(1)), any return of the debtor for the taxable year in which the case commenced or any preceding taxable year shall, upon written request, be open to inspection by or disclosure to the trustee in such case.

(B) RETURN OF ESTATE AVAILABLE TO DEBTOR.—Any return of an estate in a case to which section 1398 applies shall, upon written request, be open to inspection by or disclosure to the debtor in such case.

(C) SPECIAL RULE FOR INVOLUNTARY CASES.—In an involuntary case, no disclosure shall be made under subparagraph (A) until the order for relief has been entered by the court having jurisdiction of such case unless such court finds that such disclosure is appropriate for purposes of determining whether an order for relief should be entered.

(6) ATTORNEY IN FACT.—Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), (4), (5), (8), or (9) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

(7) RETURN INFORMATION.—Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request

whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502.

(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected.

(10) LIMITATION ON CERTAIN DISCLOSURES UNDER THIS SUBSECTION.—In the case of an inspection or disclosure under this subsection relating to the return of a partnership, S corporation, trust, or an estate, the information inspected or disclosed shall not include any supporting schedule, attachment, or list which includes the taxpayer identity information of a person other than the entity making the return or the person conducting the inspection or to whom the disclosure is made.

(11) DISCLOSURE OF INFORMATION REGARDING STATUS OF INVESTIGATION OF VIOLATION OF THIS SECTION.—In the case of a person who provides to the Secretary information indicating a violation of section 7213, 7213A, or 7214 with respect to any return or return information of such person, the Secretary may disclose to such person (or such person's designee)—

(A) whether an investigation based on the person's provision of such information has been initiated and whether it is open or closed,

(B) whether any such investigation substantiated such a violation by any individual, and

(C) whether any action has been taken with respect to such individual (including whether a referral has been made for prosecution of such individual).

(f) DISCLOSURE TO COMMITTEES OF CONGRESS.—

(1) COMMITTEE ON WAYS AND MEANS, COMMITTEE ON FINANCE, AND JOINT COMMITTEE ON TAXATION.—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(2) CHIEF OF STAFF OF JOINT COMMITTEE ON TAXATION.—Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any

return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(3) OTHER COMMITTEES.—Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

(4) AGENTS OF COMMITTEES AND SUBMISSION OF INFORMATION TO SENATE OR HOUSE OF REPRESENTATIVES.—

(A) COMMITTEES DESCRIBED IN PARAGRAPH (1).—Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(B) OTHER COMMITTEES.—Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or sub-

committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(5) DISCLOSURE BY WHISTLEBLOWER.—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.

(g) DISCLOSURE TO PRESIDENT AND CERTAIN OTHER PERSONS.—

(1) IN GENERAL.—Upon written request by the President, signed by him personally, the Secretary shall furnish to the President, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

(A) the name and address of the taxpayer whose return or return information is to be disclosed,

(B) the kind of return or return information which is to be disclosed,

(C) the taxable period or periods covered by such return or return information, and

(D) the specific reason why the inspection or disclosure is requested.

(2) DISCLOSURE OF RETURN INFORMATION AS TO PRESIDENTIAL APPOINTEES AND CERTAIN OTHER FEDERAL GOVERNMENT APPOINTEES.—The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—

(A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;

(B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;

(C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or

(D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

(3) RESTRICTION ON DISCLOSURE.—The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

(4) RESTRICTION ON DISCLOSURE TO CERTAIN EMPLOYEES.—Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

(5) REPORTING REQUIREMENTS.—Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

(h) DISCLOSURE TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC..—

(1) DEPARTMENT OF THE TREASURY.—Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

(2) DEPARTMENT OF JUSTICE.—In a matter involving tax administration, a return or return information shall be open to inspection by or disclosure to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, any proceeding before a Federal grand jury or preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court, but only if—

(A) the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;

(B) the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or

(C) such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.

(3) FORM OF REQUEST.—In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—

(A) if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or

(B) if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return information relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose return or return the information so requested.

(4) DISCLOSURE IN JUDICIAL AND ADMINISTRATIVE TAX PROCEEDINGS.—A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

(A) if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title;

(B) if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

(C) if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

(D) to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would identify a con-

fidential informant or seriously impair a civil or criminal tax investigation.

(5) WITHHOLDING OF TAX FROM SOCIAL SECURITY BENEFITS.—Upon written request of the payor agency, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board (whichever is appropriate) for purposes of carrying out its responsibilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d)).

(6) INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—

(A) IN GENERAL.—Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

(B) EXCEPTION FOR REPORTS TO THE BOARD.—If—

(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties; and

(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.

(i) DISCLOSURE TO FEDERAL OFFICERS OR EMPLOYEES FOR ADMINISTRATION OF FEDERAL LAWS NOT RELATING TO TAX ADMINISTRATION.—

(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

(A) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate judge under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifi-

cally designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party, or pertaining to the case of a missing or exploited child,

(ii) any investigation which may result in such a proceeding, or

(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party, or to such a case of a missing or exploited child,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate judge for the order referred to in subparagraph (A). Upon such application, such judge or magistrate judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act (or any criminal investigation or proceeding, in the case of a matter relating to a missing or exploited child), and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

(C) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN THE CASE OF MATTERS PERTAINING TO A MISSING OR EXPLOITED CHILD.—

(i) IN GENERAL.—In the case of an investigation pertaining to a missing or exploited child, the head of any Federal agency, or his designee, may disclose any return or return information obtained under subparagraph (A) to officers and employees of any State or local law enforcement agency, but only if—

(I) such State or local law enforcement agency is part of a team with the Federal agency in such investigation, and

(II) such information is disclosed only to such officers and employees who are personally and directly engaged in such investigation.

(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of such officers and employees in locating

the missing child, in a grand jury proceeding, or in any preparation for, or investigation which may result in, a judicial or administrative proceeding.

(iii) MISSING CHILD.—For purposes of this subparagraph, the term "missing child" shall have the meaning given such term by section 403 of the Missing Children's Assistance Act (42 U.S.C. 5772).

(iv) EXPLOITED CHILD.—For purposes of this subparagraph, the term "exploited child" means a minor with respect to whom there is reason to believe that a specified offense against a minor (as defined by section 111(7) of the Sex Offender Registration and Notification Act (42 U.S.C. 16911(7))) [1] has or is occurring.

(2) DISCLOSURE OF RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

(ii) any investigation which may result in such a proceeding, or

(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

(i) the name and address of the taxpayer with respect to whom the requested return information relates;

(ii) the taxable period or periods to which such return information relates;

(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

(C) TAXPAYER IDENTITY.—For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL OR TERRORIST ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

(A) POSSIBLE VIOLATIONS OF FEDERAL CRIMINAL LAW.—

(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

(ii) TAXPAYER IDENTITY.—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

(B) EMERGENCY CIRCUMSTANCES.—

(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

(ii) FLIGHT FROM FEDERAL PROSECUTION.—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

(C) TERRORIST ACTIVITIES, ETC..—

(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to

the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

(iii) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(4) USE OF CERTAIN DISCLOSED RETURNS AND RETURN INFORMATION IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—

(A) RETURNS AND TAXPAYER RETURN INFORMATION.—Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) or (7)(C) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

(B) RETURN INFORMATION (OTHER THAN TAXPAYER RETURN INFORMATION).—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), (3)(A) or (C), or (7) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

(C) CONFIDENTIAL INFORMANT; IMPAIRMENT OF INVESTIGATIONS.—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(D) CONSIDERATION OF CONFIDENTIALITY POLICY.—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

(E) REVERSIBLE ERROR.—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

(5) DISCLOSURE TO LOCATE FUGITIVES FROM JUSTICE.—

(A) IN GENERAL.—Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate judge under subparagraph (B), be open (but only to the extent necessary as provided in such order) to

inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

(B) APPLICATION FOR ORDER.—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate judge for an order referred to in subparagraph (A). Upon such application, such judge or magistrate judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

(6) CONFIDENTIAL INFORMANTS; IMPAIRMENT OF INVESTIGATIONS.—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A) or (C), (5), (7), or (8) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC..—

(A) DISCLOSURE TO LAW ENFORCEMENT AGENCIES.—

(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(ii) DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

(iii) REQUIREMENTS.—A request meets the requirements of this clause if—

(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

(iv) LIMITATION ON USE OF INFORMATION.—Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(B) DISCLOSURE TO INTELLIGENCE AGENCIES.—

(i) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

(ii) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request—

(I) is made by an individual described in clause (iii), and

(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

(iii) REQUESTING INDIVIDUALS.—An individual described in this subparagraph is an individual—

(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

(iv) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(C) DISCLOSURE UNDER EX PARTE ORDERS.—

(i) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as pro-

vided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

(ii) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

(D) SPECIAL RULE FOR EX PARTE DISCLOSURE BY THE IRS.—

(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

(ii) LIMITATION ON USE OF INFORMATION.—Information disclosed under clause (i)—

(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

(8) COMPTROLLER GENERAL.—

(A) RETURNS AVAILABLE FOR INSPECTION.—Except as provided in subparagraph (C), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the Government Accountability Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury, which may be required by section 713 of title 31, United States Code, or

(ii) any audit authorized by subsection (p)(6),

except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(B) AUDITS OF OTHER AGENCIES.—

(i) IN GENERAL.—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997, for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the Government Accountability Office if such inspection or disclosure is—

(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

(ii) INFORMATION FROM SECRETARY.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (*l*) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the Government

Accountability Office for the purpose of, and to the extent necessary in, making such audit.

(iii) REQUIREMENT OF NOTIFICATION UPON COMPLETION OF AUDIT.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

(I) a description of the use of the returns and return information by the Federal agency involved,

(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

(iv) CERTAIN RESTRICTIONS MADE APPLICABLE.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.

(C) DISAPPROVAL BY JOINT COMMITTEE ON TAXATION.—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) or (B) with respect to an audit—

(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

(j) STATISTICAL USE.—

(1) DEPARTMENT OF COMMERCE.—Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

(2) FEDERAL TRADE COMMISSION.—Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as

the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

(3) DEPARTMENT OF TREASURY.—Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

(4) ANONYMOUS FORM.—No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105–113).

(6) CONGRESSIONAL BUDGET OFFICE.—Upon written request by the Director of the Congressional Budget Office, the Secretary shall furnish to officers and employees of the Congressional Budget Office return information for the purpose of, but only to the extent necessary for, long-term models of the social security and medicare programs.

(k) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION FOR TAX ADMINISTRATION PURPOSES.—

(1) DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.—Return information shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

(2) DISCLOSURE OF AMOUNT OF OUTSTANDING LIEN.—If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

(3) DISCLOSURE OF RETURN INFORMATION TO CORRECT MISSTATEMENTS OF FACT.—The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published

or disclosed with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

(4) DISCLOSURE TO COMPETENT AUTHORITY UNDER TAX CONVENTION.—A return or return information may be disclosed to a competent authority of a foreign government which has an income tax or gift and estate tax convention, or other convention or bilateral agreement relating to the exchange of tax information, with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention or bilateral agreement.

(5) STATE AGENCIES REGULATING TAX RETURN PREPARERS.—Taxpayer identity information with respect to any tax return preparer, and information as to whether or not any penalty has been assessed against such tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of tax return preparers.

(6) DISCLOSURE BY CERTAIN OFFICERS AND EMPLOYEES FOR INVESTIGATIVE PURPOSES.—An internal revenue officer or employee and an officer or employee of the Office of Treasury Inspector General for Tax Administration may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation. *This paragraph shall not apply to any disclosure to an individual providing information relating to any purpose described in paragraph (1) or (2) of section 7623(a) which is made under paragraph (13)(A).*

(7) DISCLOSURE OF EXCISE TAX REGISTRATION INFORMATION.—To the extent the Secretary determines that disclosure is necessary to permit the effective administration of subtitle D, the Secretary may disclose—

(A) the name, address, and registration number of each person who is registered under any provision of subtitle D (and, in the case of a registered terminal operator, the address of each terminal operated by such operator), and

(B) the registration status of any person.

(8) LEVIES ON CERTAIN GOVERNMENT PAYMENTS.—

(A) DISCLOSURE OF RETURN INFORMATION IN LEVIES ON FINANCIAL MANAGEMENT SERVICE.—In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to offi-

cers and employees of the Financial Management Service—

(i) return information, including taxpayer identity information,

(ii) the amount of any unpaid liability under this title (including penalties and interest), and

(iii) the type of tax and tax period to which such unpaid liability relates.

(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

(C) APPLICABLE GOVERNMENT PAYMENT.—For purposes of this paragraph, the term "applicable government payment" means—

(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.

(9) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(10) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO CERTAIN PRISON OFFICIALS.—

(A) IN GENERAL.—Under such procedures as the Secretary may prescribe, the Secretary may disclose to officers and employees of the Federal Bureau of Prisons and of any State agency charged with the responsibility for administration of prisons any returns or return information with respect to individuals incarcerated in Federal or State prison systems whom the Secretary has determined may have filed or facilitated the filing of a false or fraudulent return to the extent that the Secretary determines that such disclosure is necessary to permit effective Federal tax administration.

(B) DISCLOSURE TO CONTRACTOR-RUN PRISONS.—Under such procedures as the Secretary may prescribe, the disclosures authorized by subparagraph (A) may be made to contractors responsible for the operation of a Federal or State prison on behalf of such Bureau or agency.

(C) RESTRICTIONS ON USE OF DISCLOSED INFORMATION.—Any return or return information received under this paragraph shall be used only for the purposes of and to the extent necessary in taking administrative action to prevent the filing of false and fraudulent returns, including administrative actions to address possible violations of administrative rules and regulations of the prison facility and in administrative and judicial proceedings arising from such administrative actions.

(D) RESTRICTIONS ON REDISCLOSURE AND DISCLOSURE TO LEGAL REPRESENTATIVES.—Notwithstanding subsection (h)—

(i) RESTRICTIONS ON REDISCLOSURE.—Except as provided in clause (ii), any officer, employee, or contractor of the Federal Bureau of Prisons or of any State agency charged with the responsibility for administration of prisons shall not disclose any information obtained under this paragraph to any person other than an officer or employee or contractor of such Bureau or agency personally and directly engaged in the administration of prison facilities on behalf of such Bureau or agency.

(ii) DISCLOSURE TO LEGAL REPRESENTATIVES.—The returns and return information disclosed under this paragraph may be disclosed to the duly authorized legal representative of the Federal Bureau of Prisons, State agency, or contractor charged with the responsibility for administration of prisons, or of the incarcerated individual accused of filing the false or fraudulent return who is a party to an action or proceeding described in subparagraph (C), solely in preparation for, or for use in, such action or proceeding.

(11) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT REVOCATION UNDER SECTION 7345.—

(A) IN GENERAL.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

(i) the taxpayer identity information with respect to such taxpayer, and

(ii) the amount of such seriously delinquent tax debt.

(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 32101 of the FAST Act.

(12) QUALIFIED TAX COLLECTION CONTRACTORS.—Persons providing services pursuant to a qualified tax collection contract under section 6306 may, if speaking to a person who has identified himself or herself as having the name of the taxpayer to which a tax receivable (within the meaning of such section) relates, identify themselves as contractors of the Internal Rev-

enue Service and disclose the business name of the contractor, and the nature, subject, and reason for the contact. Disclosures under this paragraph shall be made only in such situations and under such conditions as have been approved by the Secretary.

(13) DISCLOSURE TO WHISTLEBLOWERS.—

(A) IN GENERAL.—The Secretary may disclose, to any individual providing information relating to any purpose described in paragraph (1) or (2) of section 7623(a), return information related to the investigation of any taxpayer with respect to whom the individual has provided such information, but only to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax liability for tax, or the amount to be collected with respect to the enforcement of any other provision of this title.

(B) UPDATES ON WHISTLEBLOWER INVESTIGATIONS.—The Secretary shall disclose to an individual providing information relating to any purpose described in paragraph (1) or (2) of section 7623(a) the following:

(i) Not later than 60 days after a case for which the individual has provided information has been referred for an audit or examination, a notice with respect to such referral.

(ii) Not later than 60 days after a taxpayer with respect to whom the individual has provided information has made a payment of tax with respect to tax liability to which such information relates, a notice with respect to such payment.

(iii) Subject to such requirements and conditions as are prescribed by the Secretary, upon a written request by such individual—

(I) information on the status and stage of any investigation or action related to such information, and

(II) in the case of a determination of the amount of any award under section 7623(b), the reasons for such determination.

Clause (iii) shall not apply to any information if the Secretary determines that disclosure of such information would seriously impair Federal tax administration. Information described in clauses (i), (ii), and (iii) may be disclosed to a designee of the individual providing such information in accordance with guidance provided by the Secretary.

(14) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CYBERSECURITY AND THE PREVENTION OF IDENTITY THEFT TAX REFUND FRAUD.—

(A) IN GENERAL.—Under such procedures and subject to such conditions as the Secretary may prescribe, the Secretary may disclose specified return information to specified ISAC participants to the extent that the Secretary determines such disclosure is in furtherance of effective Federal tax administration relating to the detection or prevention of identity theft tax refund fraud, validation of taxpayer iden-

tity, authentication of taxpayer returns, or detection or prevention of cybersecurity threats.

(B) SPECIFIED ISAC PARTICIPANTS.—For purposes of this paragraph—

(i) IN GENERAL.—The term "specified ISAC participant" means—

(I) any person designated by the Secretary as having primary responsibility for a function performed with respect to the information sharing and analysis center described in section 2003(a) of the Taxpayer First Act of 2019, and

(II) any person subject to the requirements of section 7216 and which is a participant in such information sharing and analysis center.

(ii) INFORMATION SHARING AGREEMENT.—Such term shall not include any person unless such person has entered into a written agreement with the Secretary setting forth the terms and conditions for the disclosure of information to such person under this paragraph, including requirements regarding the protection and safeguarding of such information by such person.

(C) SPECIFIED RETURN INFORMATION.—For purposes of this paragraph, the term "specified return information" means—

(i) in the case of a return which is in connection with a case of potential identity theft refund fraud—

(I) in the case of such return filed electronically, the internet protocol address, device identification, email domain name, speed of completion, method of authentication, refund method, and such other return information related to the electronic filing characteristics of such return as the Secretary may identify for purposes of this subclause, and

(II) in the case of such return prepared by a tax return preparer, identifying information with respect to such tax return preparer, including the preparer taxpayer identification number and electronic filer identification number of such preparer,

(ii) in the case of a return which is in connection with a case of a identity theft refund fraud which has been confirmed by the Secretary (pursuant to such procedures as the Secretary may provide), the information referred to in subclauses (I) and (II) of clause (i), the name and taxpayer identification number of the taxpayer as it appears on the return, and any bank account and routing information provided for making a refund in connection with such return, and

(iii) in the case of any cybersecurity threat to the Internal Revenue Service, information similar to the information described in subclauses (I) and (II) of clause (i) with respect to such threat.

(D) RESTRICTION ON USE OF DISCLOSED INFORMATION.—

(i) DESIGNATED THIRD PARTIES.—Any return information received by a person described in subparagraph

(B)(i)(I) shall be used only for the purposes of and to the extent necessary in—

(I) performing the function such person is designated to perform under such subparagraph,

(II) facilitating disclosures authorized under subparagraph (A) to persons described in subparagraph (B)(i)(II), and

(III) facilitating disclosures authorized under subsection (d) to participants in such information sharing and analysis center.

(ii) RETURN PREPARERS.—Any return information received by a person described in subparagraph (B)(i)(II) shall be treated for purposes of section 7216 as information furnished to such person for, or in connection with, the preparation of a return of the tax imposed under chapter 1.

(E) DATA PROTECTION AND SAFEGUARDS.—Return information disclosed under this paragraph shall be subject to such protections and safeguards as the Secretary may require in regulations or other guidance or in the written agreement referred to in subparagraph (B)(ii). Such written agreement shall include a requirement that any unauthorized access to information disclosed under this paragraph, and any breach of any system in which such information is held, be reported to the Treasury Inspector General for Tax Administration.

(l) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

(1) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION AND RAILROAD RETIREMENT BOARD.—The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

(2) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO THE DEPARTMENT OF LABOR AND PENSION BENEFIT GUARANTY CORPORATION.—The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

(3) DISCLOSURE THAT APPLICANT FOR FEDERAL LOAN HAS TAX DELINQUENT ACCOUNT.—

(A) IN GENERAL.—Upon written request, the Secretary may disclose to the head of the Federal agency admin-

istering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

(B) RESTRICTION ON DISCLOSURE.—Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—For purposes of this paragraph, the term "included Federal loan program" means any program under which the United States or a Federal agency makes, guarantees, or insures loans.

(4) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN PERSONNEL OR CLAIMANT REPRESENTATIVE MATTERS.—The Secretary may disclose returns and return information—

(A) upon written request—

(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 330 of title 31, United States Code,

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

(5) SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of—

(A) carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program; or

(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.

(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the social security account number (or numbers, if the individual

involved has more than one such number), address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) DISCLOSURE TO CERTAIN AGENTS.—The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

(i) The address and social security account number (or numbers) of such individual.

(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.

(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT, THE FOOD AND NUTRITION ACT OF 2008, OR TITLE 38, UNITED STATES CODE, OR CERTAIN HOUSING ASSISTANCE PROGRAMS.—

(A) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

(B) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service

files to any Federal, State, or local agency administering a program listed in subparagraph (D).

(C) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

(i) a State program funded under part A of title IV of the Social Security Act;

(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act or subsidies provided under section 1860D–14 of such Act;

(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66);

(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) unemployment compensation provided under a State law described in section 3304 of this title;

(vi) assistance provided under the Food and Nutrition Act of 2008;

(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66);

(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(II) parents' dependency and indemnity compensation provided under section 1315 of title 38, United States Code;

(III) health-care services furnished under sections 1710(a)(2)(G), 1710(a)(3), and 1710(b) of such title; and

(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule; and

(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return infor-

mation may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs.

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV).

(8) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a Federal or State or local child support enforcement agency return information from returns with respect to social security account numbers, net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

(C) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—For purposes of this paragraph, the term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B).

(9) DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.—Notwithstanding any other provision of this section, the Secretary may disclose—

(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.

(10) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SUBSECTION (C), (D), (E), OR (F) OF SECTION 6402.—

(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written re-

quest, disclose to officers and employees of any agency seeking a reduction under subsection (c), (d), (e), or (f) of section 6402, to officers and employees of the Department of Labor for purposes of facilitating the exchange of data in connection with a notice submitted under subsection (f)(5)(C) of section 6402, and to officers and employees of the Department of the Treasury in connection with such reduction—

(i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made and with respect to any other person filing a joint return with such taxpayer,

(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

(iii) the amount of such reduction,

(iv) whether such taxpayer filed a joint return, and

(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—(i) Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c), (d), (e), or (f) of section 6402 is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c), (d), (e), or (f) of section 6402.

(ii) Notwithstanding clause (i), return information disclosed to officers and employees of the Department of Labor may be accessed by agents who maintain and provide technological support to the Department of Labor's Interstate Connection Network (ICON) solely for the purpose of providing such maintenance and support.

(11) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(A) IN GENERAL.—The Commissioner of Social Security shall, on written request, disclose to the Office of Personnel Management return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5).

(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, the administration of chapters 83 and 84 of title 5, United States Code.

(12) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request from the Administrator of the Centers for Medicare & Medicaid Services, disclose to the Administrator the following information:

(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)), above an amount (if any) specified by the Secretary of Health and Human Services, from a qualified employer in a previous year.

(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages, above an amount (if any) specified by the Secretary of Health and Human Services, from a qualified employer in a previous year—

(I) the name and TIN of the medicare beneficiary, and

(II) the name and TIN of the spouse.

(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

(C) DISCLOSURE BY CENTERS FOR MEDICARE & MEDICAID SERVICES.—With respect to the information disclosed under subparagraph (B), the Administrator of the Centers for Medicare & Medicaid Services may disclose—

(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the "employee") for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if

the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

(D) SPECIAL RULES.—

(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

(E) DEFINITIONS.—For purposes of this paragraph—

(i) MEDICARE BENEFICIARY.—The term "medicare beneficiary" means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818.

(ii) GROUP HEALTH PLAN.—The term "group health plan" means any group health plan (as defined in section 5000(b)(1)).

(iii) QUALIFIED EMPLOYER.—The term "qualified employer" means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer, and

(iii) the adjusted gross income of such taxpayer.

(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may

be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

(C) APPLICABLE STUDENT LOAN.—For purposes of this paragraph, the term "applicable student loan" means—

(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

(D) TERMINATION.—This paragraph shall not apply to any request made after December 31, 2007.

(14) DISCLOSURE OF RETURN INFORMATION TO UNITED STATES CUSTOMS SERVICE.—The Secretary may, upon written request from the Commissioner of the United States Customs Service, disclose to officers and employees of the Department of the Treasury such return information with respect to taxes imposed by chapters 1 and 6 as the Secretary may prescribe by regulations, solely for the purpose of, and only to the extent necessary in—

(A) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 (19 U.S.C. 1509), or

(B) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits.

(15) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose to officers and employees of—

(A) any Federal agency,

(B) any agency of a State or local government, or

(C) any agency of the government of a foreign country, information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law.

(16) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF ADMINISTERING THE DISTRICT OF COLUMBIA RETIREMENT PROTECTION ACT OF 1997.—

(A) IN GENERAL.—Upon written request available return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5) of this subsection), relating to the amount of wage income (as defined in section 3121(a) or 3401(a)), the name, address, and identifying number assigned under section 6109, of payors of wage income, taxpayer identity (as defined in section 6103(b)(6)), and the occupational status reflected on any return filed by, or with respect to, any individual with respect to whom eligibility for, or the correct

amount of, benefits under the District of Columbia Retirement Protection Act of 1997, is sought to be determined, shall be disclosed by the Commissioner of Social Security, or to the extent not available from the Social Security Administration, by the Secretary, to any duly authorized officer or employee of the Department of the Treasury, or a Trustee or any designated officer or employee of a Trustee (as defined in the District of Columbia Retirement Protection Act of 1997), or any actuary engaged by a Trustee under the terms of the District of Columbia Retirement Protection Act of 1997, whose official duties require such disclosure, solely for the purpose of, and to the extent necessary in, determining an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(B) DISCLOSURE FOR USE IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Return information disclosed to any person under this paragraph may be disclosed in a judicial or administrative proceeding relating to the determination of an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(17) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsection (f), (i)(8), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.

(18) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—The Secretary may disclose to providers of health insurance for any certified individual (as defined in section 7527(c)) return information with respect to such certified individual only to the extent necessary to carry out the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).

(19) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF PROVIDING TRANSITIONAL ASSISTANCE UNDER MEDICARE DISCOUNT CARD PROGRAM.—

(A) IN GENERAL.—The Secretary, upon written request from the Secretary of Health and Human Services pursuant to carrying out section 1860D–31 of the Social Security Act, shall disclose to officers, employees, and contractors of the Department of Health and Human Services with respect to a taxpayer for the applicable year—

(i)(I) whether the adjusted gross income, as modified in accordance with specifications of the Secretary of Health and Human Services for purposes of carrying out such section, of such taxpayer and, if applicable, such taxpayer's spouse, for the applicable year, exceeds the amounts specified by the Secretary of Health and Human Services in order to apply the 100 and 135 percent of the poverty lines under such section, (II) whether the return was a joint return, and (III) the applicable year, or

(ii) if applicable, the fact that there is no return filed for such taxpayer for the applicable year.

(B) DEFINITION OF APPLICABLE YEAR.—For the purposes of this subsection, the term "applicable year" means the most recent taxable year for which information is available in the Internal Revenue Service's taxpayer data information systems, or, if there is no return filed for such taxpayer for such year, the prior taxable year.

(C) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under this paragraph may be used only for the purposes of determining eligibility for and administering transitional assistance under section 1860D–31 of the Social Security Act.

(20) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT MEDICARE PART B PREMIUM SUBSIDY ADJUSTMENT AND PART D BASE BENEFICIARY PREMIUM INCREASE.—

(A) IN GENERAL.—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to officers, employees, and contractors of the Social Security Administration return information of a taxpayer whose premium (according to the records of the Secretary) may be subject to adjustment under section 1839(i) or increase under section 1860D–13(a)(7) of the Social Security Act. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer,

(iii) the adjusted gross income of such taxpayer,

(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911 to the extent such information is available,

(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available,

(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available,

(vii) such other information relating to the liability of the taxpayer as is prescribed by the Secretary by regulation as might indicate in the case of a taxpayer who is an individual described in subsection (i)(4)(B)(iii) of section 1839 of the Social Security Act that the amount of the premium of the taxpayer under such section may be subject to adjustment under subsection (i) of such section or increase under section

1860D–13(a)(7) of such Act and the amount of such adjustment, and

(viii) the taxable year with respect to which the preceding information relates.

(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—

(i) IN GENERAL.—Return information disclosed under subparagraph (A) may be used by officers, employees, and contractors of the Social Security Administration only for the purposes of, and to the extent necessary in, establishing the appropriate amount of any premium adjustment under such section 1839(i) or increase under such section 1860D–13(a)(7) or for the purpose of resolving taxpayer appeals with respect to any such premium adjustment or increase.

(ii) DISCLOSURE TO OTHER AGENCIES.—Officers, employees, and contractors of the Social Security Administration may disclose—

(I) the taxpayer identity information and the amount of the premium subsidy adjustment or premium increase with respect to a taxpayer described in subparagraph (A) to officers, employees, and contractors of the Centers for Medicare and Medicaid Services, to the extent that such disclosure is necessary for the collection of the premium subsidy amount or the increased premium amount,

(II) the taxpayer identity information and the amount of the premium subsidy adjustment or the increased premium amount with respect to a taxpayer described in subparagraph (A) to officers and employees of the Office of Personnel Management and the Railroad Retirement Board, to the extent that such disclosure is necessary for the collection of the premium subsidy amount or the increased premium amount,

(III) return information with respect to a taxpayer described in subparagraph (A) to officers and employees of the Department of Health and Human Services to the extent necessary to resolve administrative appeals of such premium subsidy adjustment or increased premium, and

(IV) return information with respect to a taxpayer described in subparagraph (A) to officers and employees of the Department of Justice for use in judicial proceedings to the extent necessary to carry out the purposes described in clause (i).

(21) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT ELIGIBILITY REQUIREMENTS FOR CERTAIN PROGRAMS.—

(A) IN GENERAL.—The Secretary, upon written request from the Secretary of Health and Human Services, shall disclose to officers, employees, and contractors of the Department of Health and Human Services return information of any taxpayer whose income is relevant in determining any premium tax credit under section 36B or any cost-sharing reduction under section 1402 of the Patient

Protection and Affordable Care Act or eligibility for participation in a State medicaid program under title XIX of the Social Security Act, a State's children's health insurance program under title XXI of the Social Security Act, or a basic health program under section 1331 of Patient Protection and Affordable Care Act. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer,

(iii) the number of individuals for whom a deduction is allowed under section 151 with respect to the taxpayer (including the taxpayer and the taxpayer's spouse),

(iv) the modified adjusted gross income (as defined in section 36B) of such taxpayer and each of the other individuals included under clause (iii) who are required to file a return of tax imposed by chapter 1 for the taxable year,

(v) such other information as is prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for such credit or reduction (and the amount thereof), and

(vi) the taxable year with respect to which the preceding information relates or, if applicable, the fact that such information is not available.

(B) INFORMATION TO EXCHANGE AND STATE AGENCIES.—The Secretary of Health and Human Services may disclose to an Exchange established under the Patient Protection and Affordable Care Act or its contractors, or to a State agency administering a State program described in subparagraph (A) or its contractors, any inconsistency between the information provided by the Exchange or State agency to the Secretary and the information provided to the Secretary under subparagraph (A).

(C) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) or (B) may be used by officers, employees, and contractors of the Department of Health and Human Services, an Exchange, or a State agency only for the purposes of, and to the extent necessary in—

(i) establishing eligibility for participation in the Exchange, and verifying the appropriate amount of, any credit or reduction described in subparagraph (A),

(ii) determining eligibility for participation in the State programs described in subparagraph (A).

(22) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR PURPOSES OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

(A) IN GENERAL.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information with respect to a taxpayer who has applied to enroll, or reenroll, as a provider of services or supplier under the Medicare

program under title XVIII of the Social Security Act. Such return information shall be limited to—

(i) the taxpayer identity information with respect to such taxpayer;

(ii) the amount of the delinquent tax debt owed by that taxpayer; and

(iii) the taxable year to which the delinquent tax debt pertains.

(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services for the purposes of, and to the extent necessary in, establishing the taxpayer's eligibility for enrollment or reenrollment in the Medicare program, or in any administrative or judicial proceeding relating to, or arising from, a denial of such enrollment or reenrollment, or in determining the level of enhanced oversight to be applied with respect to such taxpayer pursuant to section 1866(j)(3) of the Social Security Act.

(C) DELINQUENT TAX DEBT.—For purposes of this paragraph, the term "delinquent tax debt" means an outstanding debt under this title for which a notice of lien has been filed pursuant to section 6323, but the term does not include a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, or a debt with respect to which a collection due process hearing under section 6330 is requested, pending, or completed and no payment is required.

(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) FEDERAL CLAIMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with sections 3711, 3717, and 3718 of title 31.

(B) SPECIAL RULE FOR CONSUMER REPORTING AGENCY.—In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with sections 3711, 3717, and 3718 of title 31.

(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of

the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

(4) INDIVIDUALS WHO OWE AN OVERPAYMENT OF FEDERAL PELL GRANTS OR WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF EDUCATION.—

(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

(ii) who has defaulted on a loan—

(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan.

(B) DISCLOSURE TO EDUCATIONAL INSTITUTIONS, ETC..—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B or D of title IV of the Higher Education Act of 1965, or

(ii) any educational institution with which the Secretary of Education has an agreement under subpart 1 of part A, or part D or E, of title IV of such Act,

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

(5) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(A) IN GENERAL.—Upon written request by the Secretary of Health and Human Services, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made under part C [1] of title VII of the Public Health Service Act or under subpart II of part B of title VIII of such Act, for use only by officers, employees, or agents of the Department of Health and Human Services for purposes of locating such taxpayer for purposes of collecting such loan.

(B) DISCLOSURE TO SCHOOLS AND ELIGIBLE LENDERS.—Any mailing address disclosed under subparagraph (A) may be disclosed by the Secretary of Health and Human Services to—

(i) any school with which the Secretary of Health and Human Services has an agreement under subpart

II [1] of part C of title VII of the Public Health Service Act or subpart II [1] of part B of title VIII of such Act, or

(ii) any eligible lender (within the meaning of section 737(4) [1] of such Act) participating under subpart I [1] of part C of title VII of such Act,

for use only by officers, employees, or agents of such school or eligible lender whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such subparts for the purposes of collecting such loans.

(6) BLOOD DONOR LOCATOR SERVICE.—

(A) IN GENERAL.—Upon written request pursuant to section 1141 of the Social Security Act, the Secretary shall disclose the mailing address of taxpayers to officers and employees of the Blood Donor Locator Service in the Department of Health and Human Services.

(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, assisting under the Blood Donor Locator Service authorized persons (as defined in section 1141(h)(1) of the Social Security Act) in locating blood donors who, as indicated by donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, have or may have the virus for acquired immune deficiency syndrome, in order to inform such donors of the possible need for medical care and treatment.

(C) SAFEGUARDS.—The Secretary shall destroy all related blood donor records (as defined in section 1141(h)(2) of the Social Security Act) in the possession of the Department of the Treasury upon completion of their use in making the disclosure required under subparagraph (A), so as to make such records undisclosable.

(7) SOCIAL SECURITY ACCOUNT STATEMENT FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.

(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and the providing of other services, for purposes of tax administration.

(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO CERTAIN TAXES.—

(1) TAXES IMPOSED BY SUBTITLE E.—

(A) IN GENERAL.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on

alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

(B) USE IN CERTAIN PROCEEDINGS.—Returns and return information disclosed to a Federal agency under subparagraph (A) may be used in an action or proceeding (or in preparation for such action or proceeding) brought under section 625 of the American Jobs Creation Act of 2004 for the collection of any unpaid assessment or penalty arising under such Act.

(2) TAXES IMPOSED BY CHAPTER 35.—Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

(p) PROCEDURE AND RECORDKEEPING.—

(1) MANNER, TIME, AND PLACE OF INSPECTIONS.—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

(2) PROCEDURE.—

(A) REPRODUCTION OF RETURNS.—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

(B) DISCLOSURE OF RETURN INFORMATION.—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

(C) USE OF REPRODUCTIONS.—Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

(3) RECORDS OF INSPECTION AND DISCLOSURE.—

(A) SYSTEM OF RECORDKEEPING.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section and section 6104(c). Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be

required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsection (c), (e), (f)(5), (h)(1), (3)(A), or (4), (i)(4), or (8)(A)(ii), (k)(1), (2), (6), (8), or (9), (*l*)(1), (4)(B), (5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), or (18), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

(B) REPORT BY THE SECRETARY.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determine.

(C) PUBLIC REPORT ON DISCLOSURES.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (7)(A)(ii), or (*l*)(6), and the Government Accountability Office the number of—

(I) requests for disclosure of returns and return information,

(II) instances in which returns and return information were disclosed pursuant to such requests or otherwise,

(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

(ii) describes the general purposes for which such requests were made.

(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5), or (7), (j)(1), (2), or (5), (k)(8), (10), or (11), (*l*)(1), (2), (3), (5), (10), (11), (13), (14), (17), or (22) or (*o*)(1)(A), the Government Accountability Office, the

Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(1)(C), (3)(B)(i), or (7)(A)(ii), or (k)(10), (*l*)(6), (7), (8), (9), (12), (15), or (16), any appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10), subsection (*l*)(10), (16), (18), (19), or (20), or any entity described in subsection (*l*)(21), shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission, the Government Accountability Office, or the Congressional Budget Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), (k)(10), or (*l*)(6), (7), (8), (9), or (16), any appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10) or subsection (*l*)(10), (16), (18), (19), or (20) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,

(ii) in the case of an agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5) or (7), (j)(1), (2), or (5), (k)(8), (10), or (11), (*l*)(1), (2), (3), (5), (10), (11), (12), (13), (14), (15), (17), or (22), or (*o*)(1)(A) or any entity described in subsection (*l*)(21), the Government Accountability Office, or the Congressional Budget Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information, and

(iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such return information upon completion of its use in providing the notification for which the information was obtained, so as to make such information undisclosable;

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission, including an agency, an appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10) or subsection (*l*)(10), (16), (18), (19), or (20) or any entity described in subsection (*l*)(21), or the Government Accountability Office or the Congressional Budget Office, has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency, an appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10) or subsection (*l*)(10), (16), (18), (19), or (20) or any entity described in subsection (*l*)(21), or the Government Accountability Office or the Congressional Budget Office, until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under paragraph (2), (4), (6), or (7) of subsection (m) and which discloses any such mailing address to any agent or which receives any information under paragraph (6)(A), (10), (12)(B), or (16) of subsection (*l*) and which discloses any such information to any agent, or any person including an agent described in subsection (*l*)(10) or (16), this paragraph shall apply to such agency and each such agent or other person (except that, in the case of an agent, or any person including an agent described in subsection (*l*)(10) or (16), any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency). For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term "return information" includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).

(5) REPORT ON PROCEDURES AND SAFEGUARDS.—After the close of each calendar year, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions, the Government Accountability Office, and the Congressional Budget Office for en-

suring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

(6) AUDIT OF PROCEDURES AND SAFEGUARDS.—

(A) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions and the Congressional Budget Office pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

(B) RECORDS OF INSPECTION AND REPORTS BY THE COMPTROLLER GENERAL.—The Comptroller General shall—

(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the Government Accountability Office under subsection (i)(8)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

(7) ADMINISTRATIVE REVIEW.—The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

(8) STATE LAW REQUIREMENTS.—

(A) SAFEGUARDS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

(B) DISCLOSURE OF RETURNS OR RETURN INFORMATION IN STATE RETURNS.—Nothing in subparagraph (A) *or paragraph (9)* shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State

(or political subdivision of such State) if such disclosure is specifically authorized by State law.

(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

(B) agrees to conduct an on-site review every 3 years (or a mid-point review in the case of contracts or agreements of less than 3 years in duration) of each contractor or other agent to determine compliance with such requirements,

(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor or other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.

(q) REGULATIONS.—The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section.

SEC. 6104. PUBLICITY OF INFORMATION REQUIRED FROM CERTAIN EXEMPT ORGANIZATIONS AND CERTAIN TRUSTS.

(a) INSPECTION OF APPLICATIONS FOR TAX EXEMPTION OR NOTICE OF STATUS.—

(1) PUBLIC INSPECTION.—

(A) ORGANIZATIONS DESCRIBED IN SECTION 501 OR 527.—If an organization described in section 501(c) or (d) is exempt from taxation under section 501(a) for any taxable year or a political organization is exempt from taxation under section 527 for any taxable year, the application filed by the organization with respect to which the Secretary made his determination that such organization was entitled to exemption under section 501(a) or notice of status filed by the organization under section 527(i), together with any papers submitted in support of such application or notice, and any letter or other document issued by the Internal Revenue Service with respect to such application or notice shall be open to public inspection at the national office of the Internal Revenue Service. In the case of any application or notice filed after the date of the enactment of this subparagraph, a copy of such application or notice and such letter or document shall be open to public inspection at the appropriate field office of the Internal Revenue

Service (determined under regulations prescribed by the Secretary). Any inspection under this subparagraph may be made at such times, and in such manner, as the Secretary shall by regulations prescribe. After the application of any organization for exemption from taxation under section 501(a) has been opened to public inspection under this subparagraph, the Secretary shall, on the request of any person with respect to such organization, furnish a statement indicating the subsection and paragraph of section 501 which it has been determined describes such organization.

(B) PENSION, ETC., PLANS.—The following shall be open to public inspection at such times and in such places as the Secretary may prescribe:

(i) any application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a) or 403(a), an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b),

(ii) any application filed with respect to the exemption from tax under section 501(a) of an organization forming part of a plan or account referred to in clause (i),

(iii) any papers submitted in support of an application referred to in clause (i) or (ii), and

(iv) any letter or other document issued by the Internal Revenue Service and dealing with the qualification referred to in clause (i) or the exemption from tax referred to in clause (ii).

Except in the case of a plan participant, this subparagraph shall not apply to any plan referred to in clause (i) having not more than 25 participants.

(C) CERTAIN NAMES AND COMPENSATION NOT TO BE OPENED TO PUBLIC INSPECTION.—In the case of any application, document, or other papers, referred to in subparagraph (B), information from which the compensation (including deferred compensation) of any individual may be ascertained shall not be open to public inspection under subparagraph (B).

(D) WITHHOLDING OF CERTAIN OTHER INFORMATION.—Upon request of the organization submitting any supporting papers described in subparagraph (A) or (B), the Secretary shall withhold from public inspection any information contained therein which he determines relates to any trade secret, patent, process, style of work, or apparatus, of the organization, if he determines that public disclosure of such information would adversely affect the organization. The Secretary shall withhold from public inspection any information contained in supporting papers described in subparagraph (A) or (B) the public disclosure of which he determines would adversely affect the national defense.

(2) INSPECTION BY COMMITTEES OF CONGRESS.—Section 6103(f) shall apply with respect to—

(A) the application for exemption of any organization described in section 501(c) or (d) which is exempt from taxation under section 501(a) for any taxable year or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year, and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

(B) any other papers which are in the possession of the Secretary and which relate to such application,

as if such papers constituted returns.

(3) INFORMATION AVAILABLE ON INTERNET AND IN PERSON.—

(A) IN GENERAL.—The Secretary shall make publicly available, on the Internet and at the offices of the Internal Revenue Service—

(i) a list of all political organizations which file a notice with the Secretary under section 527(i), and

(ii) the name, address, electronic mailing address, custodian of records, and contact person for such organization.

(B) TIME TO MAKE INFORMATION AVAILABLE.—The Secretary shall make available the information required under subparagraph (A) not later than 5 business days after the Secretary receives a notice from a political organization under section 527(i).

(b) INSPECTION OF ANNUAL RETURNS.—The information required to be furnished by sections 6033, 6034, and 6058, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary may prescribe. Nothing in this subsection shall authorize the Secretary to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a) or a political organization exempt from taxation under section 527) which is required to furnish such information. In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization. In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c). Any annual return which is filed under section 6011 by an organization described in section 501(c)(3) and which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) shall be treated for purposes of this subsection in the same manner as if furnished under section 6033. *Any annual return required to be filed electronically under section 6033(n) shall be made available by the Secretary to the public as soon as practicable in a machine readable format.*

(c) PUBLICATION TO STATE OFFICIALS.—

(1) GENERAL RULE FOR CHARITABLE ORGANIZATIONS.—In the case of any organization which is described in section 501(c)(3) and exempt from taxation under section 501(a), or has applied under section 508(a) for recognition as an organization described in section 501(c)(3), the Secretary at such times and in such manner as he may by regulations prescribe shall—

(A) notify the appropriate State officer of a refusal to recognize such organization as an organization described in section 501(c)(3), or of the operation of such organization in a manner which does not meet, or no longer meets, the requirements of its exemption,

(B) notify the appropriate State officer of the mailing of a notice of deficiency of tax imposed under section 507 or chapter 41 or 42, and

(C) at the request of such appropriate State officer, make available for inspection and copying such returns, filed statements, records, reports, and other information, relating to a determination under subparagraph (A) or (B) as are relevant to any determination under State law.

(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

(i) upon written request by an appropriate State officer, and

(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such returns or return information may constitute evidence of noncompliance

under the laws within the jurisdiction of the appropriate State officer.

(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of any organization described in section 501(c) (other than organizations described in paragraph (1) or (3) thereof) for the purpose of, and only to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

(6) DEFINITIONS.—For purposes of this subsection—

(A) RETURN AND RETURN INFORMATION.—The terms "return" and "return information" have the respective meanings given to such terms by section 6103(b).

(B) APPROPRIATE STATE OFFICER.—The term "appropriate State officer" means—

(i) the State attorney general,

(ii) the State tax officer,

(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.

(d) PUBLIC INSPECTION OF CERTAIN ANNUAL RETURNS, REPORTS, APPLICATIONS FOR EXEMPTION, AND NOTICES OF STATUS.—

(1) IN GENERAL.—In the case of an organization described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a) or an organization exempt from taxation under section 527(a)—

(A) a copy of—

(i) the annual return filed under section 6033 (relating to returns by exempt organizations) by such organization,

(ii) any annual return which is filed under section 6011 by an organization described in section 501(c)(3) and which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations),

(iii) if the organization filed an application for recognition of exemption under section 501 or notice of status under section 527(i), the exempt status application materials or any notice materials of such organization, and

(iv) the reports filed under section 527(j) (relating to required disclosure of expenditures and contributions) by such organization,

shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

(B) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return, reports, and exempt status application materials or such notice materials shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in subparagraph (B) must be made in person or in writing. If such request is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days.

(2) 3-YEAR LIMITATION ON INSPECTION OF RETURNS.—Paragraph (1) shall apply to an annual return filed under section 6011 or 6033 only during the 3-year period beginning on the last day prescribed for filing such return (determined with regard to any extension of time for filing).

(3) EXCEPTIONS FROM DISCLOSURE REQUIREMENT.—

(A) NONDISCLOSURE OF CONTRIBUTORS, ETC..—In the case of an organization which is not a private foundation (within the meaning of section 509(a)) or a political organization exempt from taxation under section 527, paragraph (1) shall not require the disclosure of the name or address of any contributor to the organization. In the case of an organization described in section 501(d), paragraph (1) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.

(B) NONDISCLOSURE OF CERTAIN OTHER INFORMATION.—Paragraph (1) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D).

(4) LIMITATION ON PROVIDING COPIES.—Paragraph (1)(B) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest.

(5) EXEMPT STATUS APPLICATION MATERIALS.—For purposes of paragraph (1), the term "exempt status application materials" means the application for recognition of exemption under section 501 and any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application.

(6) NOTICE MATERIALS.—For purposes of paragraph (1), the term "notice materials" means the notice of status filed under section 527(i) and any papers submitted in support of such notice and any letter or other document issued by the Internal Revenue Service with respect to such notice.

(7) DISCLOSURE OF REPORTS BY INTERNAL REVENUE SERVICE.—Any report filed by an organization under section 527(j) (relating to required disclosure of expenditures and contributions) shall be made available to the public at such times and in such places as the Secretary may prescribe.

(8) APPLICATION TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The organizations referred to in paragraphs (1) and (2) of section 6033(d) shall comply with the requirements of this subsection relating to annual returns filed under section 6033 in the same manner as the organizations referred to in paragraph (1).

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SEC. 6108. STATISTICAL PUBLICATIONS AND STUDIES.

(a) PUBLICATION OR OTHER DISCLOSURE OF STATISTICS OF INCOME.—The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

(b) SPECIAL STATISTICAL STUDIES.—The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section 6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

(c) ANONYMOUS FORM.—No publication or other disclosure of statistics or other information required or authorized by subsection (a) or special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(d) STATISTICAL SUPPORT FOR NATIONAL TAXPAYER ADVOCATE.—Upon request of the National Taxpayer Advocate, the Secretary shall, to the extent practicable, provide the National Taxpayer Advocate with statistical support in connection with the preparation by the National Taxpayer Advocate of the annual report described in section 7803(c)(2)(B)(ii). Such statistical support shall include statistical studies, compilations, and the review of information provided by the National Taxpayer Advocate for statistical validity and sound statistical methodology.

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CHAPTER 64—COLLECTION

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Subchapter A—GENERAL PROVISIONS

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SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term "qualified tax collection contract" means any contract which—

(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

(A) to locate and contact any taxpayer specified by the Secretary,

(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed [5 years] *7 years*, and

(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

(3) prohibits subcontractors from—

(A) having contacts with taxpayers,

(B) providing quality assurance services, and

(C) composing debt collection notices, and

(4) permits subcontractors to perform other services only with the approval of the Secretary.

(c) COLLECTION OF INACTIVE TAX RECEIVABLES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall enter into one or more qualified tax collection contracts for the collection of all outstanding inactive tax receivables.

(2) INACTIVE TAX RECEIVABLES.—For purposes of this section—

(A) IN GENERAL.—The term "inactive tax receivable" means any tax receivable if—

(i) at any time after assessment, the Internal Revenue Service removes such receivable from the active inventory for lack of resources or inability to locate the taxpayer,

(ii) [more than 1/3 of the period of the applicable statute of limitation has lapsed] *more than 2 years has passed since assessment* and such receivable has not been assigned for collection to any employee of the Internal Revenue Service, or

(iii) in the case of a receivable which has been assigned for collection, more than 365 days have passed without interaction with the taxpayer or a third party for purposes of furthering the collection of such receivable.

(B) TAX RECEIVABLE.—The term "tax receivable" means any outstanding assessment which the Internal Revenue Service includes in potentially collectible inventory.

(d) CERTAIN TAX RECEIVABLES NOT ELIGIBLE FOR COLLECTION UNDER QUALIFIED TAX COLLECTIONS CONTRACTS.—A tax receivable shall not be eligible for collection pursuant to a qualified tax collection contract if such receivable—

(1) is subject to a pending or active offer-in-compromise or installment agreement,

(2) is classified as an innocent spouse case,

(3) involves a taxpayer identified by the Secretary as being—

(A) deceased,

(B) under the age of 18,

(C) in a designated combat zone, [or]

(D) a victim of tax-related identity theft,

(E) a taxpayer substantially all of whose income consists of disability insurance benefits under section 223 of the Social Security Act or supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66), or

(F) a taxpayer who is an individual with adjusted gross income, as determined for the most recent taxable year for which such information is available, which does not exceed 200 percent of the applicable poverty level (as determined by the Secretary),

(4) is currently under examination, litigation, criminal investigation, or levy, or

(5) is currently subject to a proper exercise of a right of appeal under this title.

(e) FEES.—The Secretary may retain and use—

(1) an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract, and

(2) an amount not in excess of 25 percent of such amount collected to fund the special compliance personnel program account under section 6307.

The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

(f) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

(g) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

(h) CONTRACTING PRIORITY.—In contracting for the services of any person under this section, the Secretary shall utilize private collection contractors and debt collection centers on the schedule required under section 3711(g) of title 31, United States Code, including the technology and communications infrastructure established therein, to the extent such private collection contractors and debt collection centers are appropriate to carry out the purposes of this section.

(i) TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—The Secretary may prescribe procedures under which a taxpayer determined to be affected by a Federally declared disaster (as defined by section 165(i)(5)) may request—

(1) relief from immediate collection measures by contractors under this section, and

(2) a return of the inactive tax receivable to the inventory of the Internal Revenue Service to be collected by an employee thereof.

(j) REPORT TO CONGRESS.—Not later than 90 days after the last day of each fiscal year (beginning with the first such fiscal year ending after the date of the enactment of this subsection), the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report with respect to qualified tax collection contracts under this section which shall include—

(1) annually, with respect to such fiscal year—

(A) the total number and amount of tax receivables provided to each contractor for collection under this section,

(B) the total amounts collected (and amounts of installment agreements entered into under subsection (b)(1)(B)) with respect to each contractor and the collection costs incurred (directly and indirectly) by the Internal Revenue Service with respect to such amounts,

(C) the impact of such contracts on the total number and amount of unpaid assessments, and on the number and amount of assessments collected by Internal Revenue Service personnel after initial contact by a contractor,

(D) the amount of fees retained by the Secretary under subsection (e) and a description of the use of such funds, and

(E) a disclosure safeguard report in a form similar to that required under section 6103(p)(5), and

(2) biannually (beginning with the second report submitted under this subsection)—

(A) an independent evaluation of contractor performance, and

(B) a measurement plan that includes a comparison of the best practices used by the private collectors to the collection techniques used by the Internal Revenue Service and mechanisms to identify and capture information on successful collection techniques used by the contractors that could be adopted by the Internal Revenue Service.

(k) CROSS REFERENCES.—

(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(g).

SEC. 6307. SPECIAL COMPLIANCE PERSONNEL PROGRAM ACCOUNT.

(a) ESTABLISHMENT OF A SPECIAL COMPLIANCE PERSONNEL PROGRAM ACCOUNT.—The Secretary shall establish an account within the Department for carrying out a program consisting of the hiring, training, and employment of special compliance personnel, and shall transfer to such account from time to time amounts retained by the Secretary under section 6306(e)(2).

(b) RESTRICTIONS.—The program described in subsection (a) shall be subject to the following restrictions:

(1) No funds shall be transferred to such account except as described in subsection (a).

(2) No other funds from any other source shall be expended for special compliance personnel employed under such program**[**, and no funds from such account shall be expended for the hiring of any personnel other than special compliance personnel.**]**.

(3) Notwithstanding any other authority, the Secretary is prohibited from spending funds out of such account **[**for any purpose other than for costs under such program associated with the employment of special compliance personnel and the retraining and reassignment of current noncollections personnel as special compliance personnel, and to reimburse the Internal Revenue Service or other government agencies for the cost of administering qualified tax collection contracts under section 6306.**]** *for other than program costs.*

(c) REPORTING.—Not later than March of each year, the Commissioner of Internal Revenue shall submit a report to the Committees on Finance and Appropriations of the Senate and the Committees on Ways and Means and Appropriations of the House of Representatives consisting of the following:

(1) For the preceding fiscal year, all funds received in the account established under subsection (a), administrative and program costs for the program described in such subsection, the number of special compliance personnel hired and employed under the program, and the amount of revenue actually collected by such personnel.

(2) For the current fiscal year, all actual and estimated funds received or to be received in the account, all actual and estimated administrative and program costs, the number of all actual and estimated special compliance personnel hired and employed under the program, and the actual and estimated revenue actually collected or to be collected by such personnel.

(3) For the following fiscal year, an estimate of all funds to be received in the account, all estimated administrative and program costs, the estimated number of special compliance personnel hired and employed under the program, and the estimated revenue to be collected by such personnel.

(d) DEFINITIONS.—For purposes of this section—

(1) SPECIAL COMPLIANCE PERSONNEL.—The term "special compliance personnel" means individuals employed by the Internal Revenue Service as field function collection officers or in

a similar position, or employed to collect taxes using the automated collection system or an equivalent replacement system.

(2) PROGRAM COSTS.—The term "program costs" means—

(A) total salaries (including locality pay and bonuses), benefits, and employment taxes for special compliance personnel employed or trained under the program described in subsection (a), [and]

(B) direct overhead costs, salaries, benefits, and employment taxes relating to support staff, rental payments, office equipment and furniture, travel, data processing services, vehicle costs, utilities, [telecommunications] *communications, software, technology*, postage, printing and reproduction, supplies and materials, lands and structures, insurance claims, and indemnities for special compliance personnel hired and employed under this section[.], *and*

(C) reimbursement of the Internal Revenue Service or other government agencies for the cost of administering the qualified tax collection program under section 6306.

For purposes of subparagraph (B), the cost of management and supervision of special compliance personnel shall be taken into account as direct overhead costs to the extent such costs, when included in total program costs under this paragraph, do not represent more than 10 percent of such total costs.

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Subchapter B—RECEIPT OF PAYMENT

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SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

(2) the amount of such money order upon all the assets of the issuer thereof, or

(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) PAYMENT BY OTHER MEANS.—

(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

(A) specify which methods of payment by commercially acceptable means will be acceptable,

(B) specify when payment by such means will be considered received,

(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government. The Secretary may not pay any fee or provide any other consideration under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A. *The preceding sentence shall not apply to the extent that the Secretary ensures that any such fee or other consideration is fully recouped by the Secretary in the form of fees paid to the Secretary by persons paying taxes imposed under subtitle A with credit, debit, or charge cards pursuant to such contract. Notwithstanding the preceding sentence, the Secretary shall seek to minimize the amount of any fee or other consideration that the Secretary pays under any such contract.*

(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth in Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

(D) the term "creditor" under section 103(g) of the Truth in Lending Act (15 U.S.C. 1602(g)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

(e) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(9) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

(2) EXCEPTIONS.—(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

(i) statistical risk and profitability assessment;

(ii) transferring receivables, accounts, or interest therein;

(iii) auditing the account information;

(iv) complying with Federal, State, or local law; and

(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(4) CROSS REFERENCE.—For provision providing for civil damages for violation of paragraph (1), see section 7431.

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Subchapter C—LIEN FOR TAXES

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PART I—DUE PROCESS FOR LIENS

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SEC. 6320. NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN.

(a) REQUIREMENT OF NOTICE.—

(1) IN GENERAL.—The Secretary shall notify in writing the person described in section 6321 of the filing of a notice of lien under section 6323.

(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

(A) given in person;

(B) left at the dwelling or usual place of business of such person; or

(C) sent by certified or registered mail to such person's last known address,

not more than 5 business days after the day of the filing of the notice of lien.

(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

(A) the amount of unpaid tax;

(B) the right of the person to request a hearing during the 30-day period beginning on the day after the 5-day period described in paragraph (2);

(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals;

(D) the provisions of this title and procedures relating to the release of liens on property; and

(E) the provisions of section 7345 relating to the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports of individuals with such debts pursuant to section 32101 of the FAST Act.

(b) RIGHT TO FAIR HEARING.—

(1) IN GENERAL.—If the person requests a hearing in writing under subsection (a)(3)(B) and states the grounds for the requested hearing, such hearing shall be held by the **[**Internal Revenue Service Office of Appeals**]** *Internal Revenue Service Independent Office of Appeals*.

(2) ONE HEARING PER PERIOD.—A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in

subsection (a)(3)(A) before the first hearing under this section or section 6330. A taxpayer may waive the requirement of this paragraph.

(4) COORDINATION WITH SECTION 6330.—To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under section 6330.

(c) CONDUCT OF HEARING; REVIEW; SUSPENSIONS.—For purposes of this section, subsections (c), (d) (other than paragraph (3)(B) thereof), (e), and (g) of section 6330 shall apply.

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Subchapter D—SEIZURE OF PROPERTY FOR COLLECTION OF TAXES

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PART I—DUE PROCESS FOR COLLECTIONS

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SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.

(a) REQUIREMENT OF NOTICE BEFORE LEVY.—

(1) IN GENERAL.—No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

(A) given in person;

(B) left at the dwelling or usual place of business of such person; or

(C) sent by certified or registered mail, return receipt requested, to such person's last known address;

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

(A) the amount of unpaid tax;

(B) the right of the person to request a hearing during the 30-day period under paragraph (2); and

(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

(i) the provisions of this title relating to levy and sale of property;

(ii) the procedures applicable to the levy and sale of property under this title;

(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;

(iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and

(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

(b) RIGHT TO FAIR HEARING.—

(1) IN GENERAL.—If the person requests a hearing in writing under subsection (a)(3)(B) and states the grounds for the requested hearing, such hearing shall be held by the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*.

(2) ONE HEARING PER PERIOD.—A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

(c) MATTERS CONSIDERED AT HEARING.—In the case of any hearing conducted under this section—

(1) REQUIREMENT OF INVESTIGATION.—The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

(2) ISSUES AT HEARING.—

(A) IN GENERAL.—The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

(i) appropriate spousal defenses;

(ii) challenges to the appropriateness of collection actions; and

(iii) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

(B) UNDERLYING LIABILITY.—The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

(3) BASIS FOR THE DETERMINATION.—The determination by an appeals officer under this subsection shall take into consideration—

(A) the verification presented under paragraph (1);

(B) the issues raised under paragraph (2); and

(C) whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

(4) CERTAIN ISSUES PRECLUDED.—An issue may not be raised at the hearing if—

(A)(i) the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and

(ii) the person seeking to raise the issue participated meaningfully in such hearing or proceeding;

(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A); or

(C) a final determination has been made with respect to such issue in a proceeding brought under subchapter C of chapter 63.

This paragraph shall not apply to any issue with respect to which subsection (d)(3)(B) applies.

(d) PROCEEDING AFTER HEARING.—

(1) PETITION FOR REVIEW BY TAX COURT.—The person may, within 30 days of a determination under this section, petition the Tax Court for review of such determination (and the Tax Court shall have jurisdiction with respect to such matter).

(2) SUSPENSION OF RUNNING OF PERIOD FOR FILING PETITION IN TITLE 11 CASES.—In the case of a person who is prohibited by reason of a case under title 11, United States Code, from filing a petition under paragraph (1) with respect to a determination under this section, the running of the period prescribed by such subsection for filing such a petition with respect to such determination shall be suspended for the period during which the person is so prohibited from filing such a petition, and for 30 days thereafter.

(3) JURISDICTION RETAINED AT IRS *INDEPENDENT* OFFICE OF APPEALS.—The [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

(A) collection actions taken or proposed with respect to such determination; and

(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

(e) SUSPENSION OF COLLECTIONS AND STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing. Notwithstanding the provisions of section 7421(a), the beginning of a levy or proceeding during the time the suspension under this paragraph is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdic-

tion under this paragraph to enjoin any action or proceeding unless a timely appeal has been filed under subsection (d)(1) and then only in respect of the unpaid tax or proposed levy to which the determination being appealed relates.

(2) LEVY UPON APPEAL.—Paragraph (1) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.

(f) EXCEPTIONS.—If—

(1) the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy,

(2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund,

(3) the Secretary has served a disqualified employment tax levy, or

(4) the Secretary has served a Federal contractor levy,

this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

(g) FRIVOLOUS REQUESTS FOR HEARING, ETC..—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.

(h) DEFINITIONS RELATED TO EXCEPTIONS.—For purposes of subsection (f)—

(1) DISQUALIFIED EMPLOYMENT TAX LEVY.—A disqualified employment tax levy is any levy in connection with the collection of employment taxes for any taxable period if the person subject to the levy (or any predecessor thereof) requested a hearing under this section with respect to unpaid employment taxes arising in the most recent 2-year period before the beginning of the taxable period with respect to which the levy is served. For purposes of the preceding sentence, the term "employment taxes" means any taxes under chapter 21, 22, 23, or 24.

(2) FEDERAL CONTRACTOR LEVY.—A Federal contractor levy is any levy if the person whose property is subject to the levy (or any predecessor thereof) is a Federal contractor.

PART II—LEVY

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SEC. 6336. SALE OF PERISHABLE GOODS.

If the Secretary determines that any property seized is liable to perish [or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense], he shall appraise the value of such property and—

(1) RETURN TO OWNER.—If the owner of the property can be readily found, the Secretary shall give him notice of such determination of the appraised value of the property. The prop-

erty shall be returned to the owner if, within such time as may be specified in the notice, the owner—

(A) Pays to the Secretary an amount equal to the appraised value, or

(B) Gives bond in such form, with such sureties, and in such amount as the Secretary shall prescribe, to pay the appraised amount at such time as the Secretary determines to be appropriate in the circumstances.

(2) IMMEDIATE SALE.—If the owner does not pay such amount or furnish such bond in accordance with this section, the Secretary shall as soon as practicable make public sale of the property in accordance with such regulations as may be prescribed by the Secretary.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter A—PROCEDURE IN GENERAL

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SEC. 6402. AUTHORITY TO MAKE CREDITS OR REFUNDS.

(a) GENERAL RULE.—In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall, subject to subsections (c), (d), (e), and (f), refund any balance to such person.

(b) CREDITS AGAINST ESTIMATED TAX.—The Secretary is authorized to prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined by the taxpayer or the Secretary to be an overpayment of the income tax for a preceding taxable year.

(c) OFFSET OF PAST-DUE SUPPORT AGAINST OVERPAYMENTS.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of such Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State collecting such support and notify the person making the overpayment that so much of the overpayment as was necessary to satisfy his obligation for past-due support has been paid to the State. The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.

(d) COLLECTION OF DEBTS OWED TO FEDERAL AGENCIES.—

(1) IN GENERAL.—Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(3)) and before such overpayment is reduced pursuant to subsections (e) and (f) and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(3) TREATMENT OF OASDI OVERPAYMENTS.—

(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reduc-

tions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Commissioner of Social Security, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Commissioner of Social Security.

(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term "OASDI overpayment" means any overpayment of benefits made to an individual under title II of the Social Security Act.

(e) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

(2) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from one or more agencies of the State of more than one debt subject to paragraph (1) or

subsection (f) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section;

(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

(5) PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATION.—For purposes of this subsection, the term "past-due, legally enforceable State income tax obligation" means a debt—

(A)(i) which resulted from—

(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due; or

(II) a determination after an administrative hearing which has determined an amount of State income tax to be due; and

(ii) which is no longer subject to judicial review; or

(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term "State income tax" includes any local income tax administered by the chief tax administration agency of the State.

(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other

amounts payable to such State under such paragraph have been paid to such State).

(f) COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS.—

(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(3) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

(A) notifies the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or is not a covered unemployment compensation debt;

(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and is a covered unemployment compensation debt; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made

reasonable efforts to obtain payment of such covered unemployment compensation debt.

(4) COVERED UNEMPLOYMENT COMPENSATION DEBT.—For purposes of this subsection, the term "covered unemployment compensation debt" means—

(A) a past-due debt for erroneous payment of unemployment compensation due to fraud or the person's failure to report earnings which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected;

(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable and which remain uncollected; and

(C) any penalties and interest assessed on such debt.

(5) REGULATIONS.—

(A) IN GENERAL.—The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

(B) FEE PAYABLE TO SECRETARY.—The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(C) SUBMISSION OF NOTICES THROUGH SECRETARY OF LABOR.—The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

(6) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

(g) REVIEW OF REDUCTIONS.—No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c), (d), (e), or (f). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought

against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency or State to which the amount of such reduction was paid or any such action against the Commissioner of Social Security which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act.

(h) FEDERAL AGENCY.—For purposes of this section, the term "Federal agency" means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

(i) TREATMENT OF PAYMENTS TO STATES.—The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c), (e), or (f) to a State shall be treated as a payment to the person or persons making the overpayment.

(j) CROSS REFERENCE.—For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.

(k) REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.—Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation.

(l) EXPLANATION OF REASON FOR REFUND DISALLOWANCE.—In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.

(m) EARLIEST DATE FOR CERTAIN REFUNDS.—No credit or refund of an overpayment for a taxable year shall be made to a taxpayer before the 15th day of the second month following the close of such taxable year if a credit is allowed to such taxpayer under section 24 (by reason of subsection (d) thereof) or 32 for such taxable year.

(n) MISDIRECTED DIRECT DEPOSIT REFUND.—Not later than the date which is 6 months after the date of the enactment of the Taxpayer First Act of 2019, the Secretary shall prescribe regulations to establish procedures to allow for—

(1) taxpayers to report instances in which a refund made by the Secretary by electronic funds transfer was not transferred to the account of the taxpayer;

(2) coordination with financial institutions for the purpose of—

(A) identifying the accounts to which transfers described in paragraph (1) were made; and

(B) recovery of the amounts so transferred; and

(3) the refund to be delivered to the correct account of the taxpayer.

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CHAPTER 66—LIMITATIONS

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Subchapter A—LIMITATIONS ON ASSESSMENT AND COLLECTION

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SEC. 6503. SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.

(a) ISSUANCE OF STATUTORY NOTICE OF DEFICIENCY.—

(1) GENERAL RULE.—The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, gift and certain excise taxes), shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(2) CORPORATION JOINING IN CONSOLIDATED INCOME TAX RETURN.—If a notice under section 6212(a) in respect of a deficiency in tax imposed by subtitle A for any taxable year is mailed to a corporation, the suspension of the running of the period of limitations provided in paragraph (1) of this subsection shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year.

(b) ASSETS OF TAXPAYER IN CONTROL OR CUSTODY OF COURT.—The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any State or of the District of Columbia, and for 6 months thereafter.

(c) TAXPAYER OUTSIDE UNITED STATES.—The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer's return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months.

(d) EXTENSIONS OF TIME FOR PAYMENT OF ESTATE TAX.—The running of the period of limitation for collection of any tax imposed by chapter 11 shall be suspended for the period of any extension of time for payment granted under the provisions of section 6161(a)(2) or (b)(2) or under the provisions of section 6163 or 6166.

(e) EXTENSIONS OF TIME FOR PAYMENT OF TAX ATTRIBUTABLE TO RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—The running of the period of limitations for collection of the tax attributable to a recovery of a foreign expropriation loss (within the meaning of sec-

tion 6167(f)) shall be suspended for the period of any extension of time for payment under subsection (a) or (b) of section 6167.

(f) WRONGFUL SEIZURE OF OR LIEN ON PROPERTY OF THIRD PARTY.—

(1) WRONGFUL SEIZURE.—The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

(2) WRONGFUL LIEN.—In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released; or

(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.

(g) SUSPENSION PENDING CORRECTION.—The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments or the collection by levy or a proceeding in court in respect of any tax imposed by chapter 42 or section 507, 4971, or 4975 shall be suspended for any period described in section 507(g)(2) or during which the Secretary has extended the time for making correction under section 4963(e).

(h) CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or collection shall, in a case under title 11 of the United States Code, be suspended for the period during which the Secretary is prohibited by reason of such case from making the assessment or from collecting and—

(1) for assessment, 60 days thereafter, and

(2) for collection, 6 months thereafter.

(i) EXTENSION OF TIME FOR PAYMENT OF UNDISTRIBUTED PFIC EARNINGS TAX LIABILITY.—The running of any period of limitations for collection of any amount of undistributed PFIC earnings tax liability (as defined in section 1294(b)) shall be suspended for the period of any extension of time under section 1294 for payment of such amount.

(j) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

(1) IN GENERAL.—If any designated summons is issued by the Secretary to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the [coordinated examination program] *coordinated industry case program* (or any successor program) of the Internal Revenue Service, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

(A) during any judicial enforcement period—

(i) with respect to such summons, or

(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

(2) DESIGNATED SUMMONS.—For purposes of this subsection—

(A) IN GENERAL.—The term "designated summons" means any summons issued for purposes of determining the amount of any tax imposed by this title if—

[(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,]

(i) the issuance of such summons is preceded by a review and written approval of such issuance by the Commissioner of the relevant operating division of the Internal Revenue Service and the Chief Counsel which—

(I) states facts clearly establishing that the Secretary has made reasonable requests for the information that is the subject of the summons, and

(II) is attached to such summons,

(ii) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

(iii) such summons clearly states that it is a designated summons for purposes of this subsection.

(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term "judicial enforcement period" means, with respect to any summons, the period—

(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons.

(4) ESTABLISHMENT THAT REASONABLE REQUESTS FOR INFORMATION WERE MADE.—In any court proceeding described in paragraph (3), the Secretary shall establish that reasonable requests were made for the information that is the subject of the summons.

(k) CROSS REFERENCES.—For suspension in case of—

(1) Deficiency dividends of a personal holding company, see section 547(f).

(2) Receiverships, see subchapter B of chapter 70.

(3) Claims against transferees and fiduciaries, see chapter 71.

(4) Tax return preparers, see section 6694(c)(3).

(5) Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h).

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CHAPTER 67—INTEREST

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Subchapter A—INTEREST ON UNDERPAYMENTS

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SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

(d) PAYMENT OF INTEREST.—

(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), except as provided in paragraph (4), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under

regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

(2) DISPUTABLE TAX.—

(A) IN GENERAL.—For purposes of this section, the term "disputable tax" means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

(A) DISPUTABLE ITEM.—The term "disputable item" means any item of income, gain, loss, deduction, or credit if the taxpayer—

(i) has a reasonable basis for its treatment of such item, and

(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

(B) 30-DAY LETTER.—The term "30-day letter" means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*.

(4) RATE OF INTEREST.—The rate of interest under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

(e) USE OF DEPOSITS.—

(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.

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Subchapter C—DETERMINATION OF INTEREST RATE; COMPOUNDING OF INTEREST

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SEC. 6621. DETERMINATION OF RATE OF INTEREST.

(a) GENERAL RULE.—

(1) OVERPAYMENT RATE.—The overpayment rate established under this section shall be the sum of—

(A) the Federal short-term rate determined under subsection (b), plus

(B) 3 percentage points (2 percentage points in the case of a corporation).

To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3), applied by substituting "overpayment" for "underpayment") exceeds

$10,000, subparagraph (B) shall be applied by substituting "0.5 percentage point" for "2 percentage points".

(2) UNDERPAYMENT RATE.—The underpayment rate established under this section shall be the sum of—

(A) the Federal short-term rate determined under subsection (b), plus

(B) 3 percentage points.

(b) FEDERAL SHORT-TERM RATE.—For purposes of this section—

(1) GENERAL RULE.—The Secretary shall determine the Federal short-term rate for the first month in each calendar quarter.

(2) PERIOD DURING WHICH RATE APPLIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

(B) SPECIAL RULE FOR INDIVIDUAL ESTIMATED TAX.—In determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

(3) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any month shall be the Federal short-term rate determined during such month by the Secretary in accordance with section 1274(d). Any such rate shall be rounded to the nearest full percent (or, if a multiple of 1/2 of 1 percent, such rate shall be increased to the next highest full percent).

(c) INCREASE IN UNDERPAYMENT RATE FOR LARGE CORPORATE UNDERPAYMENTS.—

(1) IN GENERAL.—For purposes of determining the amount of interest payable under section 6601 on any large corporate underpayment for periods after the applicable date, paragraph (2) of subsection (a) shall be applied by substituting "5 percentage points" for "3 percentage points".

(2) APPLICABLE DATE.—For purposes of this subsection—

(A) IN GENERAL.—The applicable date is the 30th day after the earlier of—

(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* is sent, or

(ii) the date on which the deficiency notice under section 6212 is sent.

The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.

(B) SPECIAL RULES.—

(i) NONDEFICIENCY PROCEDURES.—In the case of any underpayment of any tax imposed by this title to which the deficiency procedures do not apply, subparagraph (A) shall be applied by taking into account any letter or notice provided by the Secretary which noti-

fies the taxpayer of the assessment or proposed assessment of the tax.

(ii) EXCEPTION WHERE AMOUNTS PAID IN FULL.—For purposes of subparagraph (A), a letter or notice shall be disregarded if, during the 30-day period beginning on the day on which it was sent, the taxpayer makes a payment equal to the amount shown as due in such letter or notice, as the case may be.

(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

(3) LARGE CORPORATE UNDERPAYMENT.—For purposes of this subsection—

(A) IN GENERAL.—The term "large corporate underpayment" means any underpayment of a tax by a C corporation for any taxable period if the amount of such underpayment for such period exceeds $100,000.

(B) TAXABLE PERIOD.—For purposes of subparagraph (A), the term "taxable period" means—

(i) in the case of any tax imposed by subtitle A, the taxable year, or

(ii) in the case of any other tax, the period to which the underpayment relates.

(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.

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CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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Subchapter A—ADDITIONS TO THE TAX AND ADDITIONAL AMOUNTS

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PART I—GENERAL PROVISIONS

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SEC. 6651. FAILURE TO FILE TAX RETURN OR TO PAY TAX.

(a) ADDITION TO THE TAX.—In case of failure—

(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) to pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not so shown (including an assessment made pursuant to section 6213(b)) within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of **[**$205**]** *$330* or 100 percent of the amount required to be shown as tax on such return.

(b) PENALTY IMPOSED ON NET AMOUNT DUE.—For purposes of—

(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of

any credit against the tax which may be claimed on the return, and

(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) LIMITATIONS AND SPECIAL RULE.—

(1) ADDITIONS UNDER MORE THAN ONE PARAGRAPH.—With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.

(2) AMOUNT OF TAX SHOWN MORE THAN AMOUNT REQUIRED TO BE SHOWN.—If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) INCREASE IN PENALTY FOR FAILURE TO PAY TAX IN CERTAIN CASES.—

(1) IN GENERAL.—In the case of each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraphs (2) and (3) of subsection (a) shall be applied by substituting "1 percent" for "0.5 percent" each place it appears.

(2) DESCRIPTION.—For purposes of paragraph (1), the day described in this paragraph is the earlier of—

(A) the day 10 days after the date on which notice is given under section 6331(d), or

(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a).

(e) EXCEPTION FOR ESTIMATED TAX.—This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(f) INCREASE IN PENALTY FOR FRAUDULENT FAILURE TO FILE.—If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied—

(1) by substituting "15 percent" for "5 percent" each place it appears, and

(2) by substituting "75 percent" for "25 percent".

(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(B).—In the case of any return made by the Secretary under section 6020(b)—

(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).

(h) LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.—In the case of an individual who files a return of tax on or before the due date for the return (including extensions), paragraphs (2) and (3) of subsection (a) shall each be applied by substituting "0.25" for "0.5" each place it appears for purposes of determining the addition to tax for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.

(i) APPLICATION TO IMPUTED UNDERPAYMENT.—For purposes of this section, any failure to comply with section 6226(b)(4)(A)(ii) shall be treated as a failure to pay the amount described in subclause (II) thereof and such amount shall be treated for purposes of this section as an amount shown as tax on a return specified in subsection (a)(1).

(j) ADJUSTMENT FOR INFLATION.—

(1) IN GENERAL.—In the case of any return required to be filed in a calendar year beginning after **[**2014**]** *2020*, the **[**$205**]** *$330* dollar amount under subsection (a) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year determined by substituting "calendar year **[**2013**]** *2019*" for "calendar year 2016" in subparagraph (A)(ii) thereof.

(2) ROUNDING.—If any amount adjusted under paragraph (1) is not a multiple of $5, such amount shall be rounded to the next lowest multiple of $5.

Subchapter B—ASSESSABLE PENALTIES

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PART I—GENERAL PROVISIONS

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SEC. 6713. DISCLOSURE OR USE OF INFORMATION BY PREPARERS OF RETURNS

(a) IMPOSITION OF PENALTY.—If any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who—

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall pay a penalty of $250 for each such disclosure or use, but the total amount imposed under this subsection on such a person for any calendar year shall not exceed $10,000.

(b) ENHANCED PENALTY FOR IMPROPER USE OR DISCLOSURE RELATING TO IDENTITY THEFT.—

(1) IN GENERAL.—In the case of a disclosure or use described in subsection (a) that is made in connection with a crime relating to the misappropriation of another person's taxpayer identity (as defined in section 6103(b)(6)), whether or not such crime involves any tax filing, subsection (a) shall be applied—

(A) by substituting "$1,000" for "$250", and

(B) by substituting "$50,000" for "$10,000".

(2) SEPARATE APPLICATION OF TOTAL PENALTY LIMITATION.—The limitation on the total amount of the penalty under subsection (a) shall be applied separately with respect to disclosures or uses to which this subsection applies and to which it does not apply.

[(b)] *(c)* EXCEPTIONS.—The rules of section 7216(b) shall apply for purposes of this section.

[(c)] *(d)* DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

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PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

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SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES

(a) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

(b) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

(c) SPECIAL RULE FOR FAILURE TO MEET MAGNETIC MEDIA REQUIREMENTS.—No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e)(2), except to the extent that such a failure occurs with respect to more than [250 information returns (more than 100 information returns in the case of a partnership having more than 100 partners)] *the applicable number (determined under section 6011(e)(5) with respect to the calendar year to which such returns relate) of information returns* or with respect to a return described in section 6011(e)(4).

(d) DEFINITIONS.—For purposes of this part—

(1) INFORMATION RETURN.—The term "information return" means—

(A) any statement of the amount of payments to another person required by—

(i) section 6041(a) or (b) (relating to certain information at source),

(ii) section 6042(a)(1) (relating to payments of dividends),

(iii) section 6044(a)(1) (relating to payments of patronage dividends),

(iv) section 6049(a) (relating to payments of interest),

(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

(vi) section 6050N(a) (relating to payments of royalties),

(vii) section 6051(d) (relating to information returns with respect to income tax withheld),

(viii) section 6050R (relating to returns relating to certain purchases of fish), or

(ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),

(B) any return required by—

(i) section 6041A(a) or (b) (relating to returns of direct sellers),

(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),

(iii) section 6045(a) or (d) (relating to returns of brokers),

(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),

(v) section 6050H(a) or (h)(1) (relating to mortgage interest received in trade or business from individuals),

(vi) section 6050I(a) or (g)(1) (relating to cash received in trade or business, etc.),

(vii) section 6050J(a) (relating to foreclosures and abandonments of security),

(viii) section 6050K(a) (relating to exchanges of certain partnership interests),

(ix) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

(x) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(xi) section 6050Q (relating to certain long-term care benefits),

(xii) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),

(xiii) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals),

(xiv) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

(xv) section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),

(xvi) section 6053(c)(1) (relating to reporting with respect to certain tips),

(xvii) subsection (b) or (e) of section 1060 (relating to reporting requirements of transferors and transferees in certain asset acquisitions),

(xviii) section 4101(d) (relating to information reporting with respect to fuels taxes),

(xix) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss),

(xx) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts),

(xxi) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements),

(xxii) section 6039(a) (relating to returns required with respect to certain options),

(xxiii) section 6050W (relating to returns to payments made in settlement of payment card transactions),

(xxiv) section 6055 (relating to returns relating to information regarding health insurance coverage),

(xxv) section 6056 (relating to returns relating to certain employers required to report on health insurance coverage), or

(xxvi) section 6050Y (relating to returns relating to certain life insurance contract transactions), and [2]

(C) any statement of the amount of payments to another person required to be made to the Secretary under—

(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.), and

(D) any statement required to be filed with the Secretary under section 6035.

Such term also includes any form, statement, or schedule required to be filed with the Secretary under chapter 4 or with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(2) PAYEE STATEMENT.—The term "payee statement" means any statement required to be furnished under—

(A) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

(B) section 6039(b) (relating to information required in connection with certain options),

(C) section 6041(d) (relating to information at source),

(D) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

(E) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions),

(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

(H) section 6045(b) or (d) (relating to returns of brokers),

(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),

(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),

(K) section 6049(c) (relating to returns regarding payments of interest),

(L) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

(M) section 6050H(d) or (h)(2) (relating to returns relating to mortgage interest received in trade or business from individuals),

(N) section 6050I(e) or paragraph (4) or (5) of section 6050I(g) (relating to cash received in trade or business, etc.),

(O) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

(P) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

(Q) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

(R) section 6050N(b) (relating to returns regarding payments of royalties),

(S) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(T) section 6050Q(b) (relating to certain long-term care benefits),

(U) section 6050R(c) (relating to returns relating to certain purchases of fish),

(V) section 6051 (relating to receipts for employees),

(W) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

(X) section 6053(b) or (c) (relating to reports of tips),

(Y) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

(Z) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person,

(AA) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person,

(BB) section 6050S(d) (relating to returns relating to qualified tuition and related expenses),

(CC) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts),

(DD) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals),

(EE) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements),

(FF) section 6050W(f) (relating to returns relating to payments made in settlement of payment card transactions),

(GG) section 6055(c) (relating to statements relating to information regarding health insurance coverage),

(HH) section 6056(c) (relating to statements relating to certain employers required to report on health insurance coverage),

(II) section 6035 (other than a statement described in paragraph (1)(D)), or

(JJ) section 6226(a)(2) (relating to statements relating to alternative to payment of imputed underpayment by partnership) or under any other provision of this title which provides for the application of rules similar to such section.

(JJ) subsection (a)(2), (b)(2), or (c)(2) of section 6050Y (relating to returns relating to certain life insurance contract transactions).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 or 4 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(3) SPECIFIED INFORMATION REPORTING REQUIREMENT.—The term "specified information reporting requirement" means—

(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange),

(B) any requirement contained in the regulations prescribed under section 6109 that a person—

(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

(ii) furnish his TIN to another person, or

(iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

(C) any requirement contained in the regulations prescribed under section 215 that a person—

(i) furnish his TIN to another person, or

(ii) include on his return the TIN of another person, and

(D) any requirement under section 6109(h) that—

(i) a person include on his return the name, address, and TIN of another person, or

(ii) a person furnish his TIN to another person.

(4) REQUIRED FILING DATE.—The term "required filing date" means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing).

(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.

(f) SPECIAL RULE FOR RETURNS OF EDUCATIONAL INSTITUTIONS RELATED TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.—No penalty shall be imposed under section 6721 or 6722 solely by reason of failing to provide the TIN of an individual on a return or statement required by section 6050S(a)(1) if the eligible educational institution required to make such return contemporaneously makes a true and accurate certification under penalty of perjury (and in such form and manner as may be prescribed by the Secretary) that it has complied with standards promulgated by the Secretary for obtaining such individual's TIN.

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CHAPTER 74—CLOSING AGREEMENTS AND COMPROMISES

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SEC. 7122. COMPROMISES.

(a) AUTHORIZATION.—The Secretary may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) RECORD.—Whenever a compromise is made by the Secretary in any case, there shall be placed on file in the office of the Secretary the opinion of the General Counsel for the Department of the Treasury or his delegate, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $50,000. However, such compromise shall be subject to continuing quality review by the Secretary.

(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

(A) LUMP-SUM OFFERS.—

(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of the amount of such offer.

(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term "lump-sum offer-in-compromise" means any offer of payments made in 5 or fewer installments.

(B) PERIODIC PAYMENT OFFERS.—

(i) IN GENERAL.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment.

(ii) FAILURE TO MAKE INSTALLMENT DURING PENDENCY OF OFFER.—Any failure to make an installment (other than the first installment) due under such offer-in-compromise during the period such offer is being evaluated by the Secretary may be treated by the Secretary as a withdrawal of such offer-in-compromise.

(2) RULES OF APPLICATION.—

(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

(B) APPLICATION OF USER FEE.—In the case of any assessed tax or other amounts imposed under this title with respect to such tax which is the subject of an offer-in-compromise to which this subsection applies, such tax or other amounts shall be reduced by any user fee imposed under this title with respect to such offer-in-compromise.

(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).

(3) EXCEPTION FOR LOW-INCOME TAXPAYERS.—Paragraph (1), and any user fee otherwise required in connection with the submission of an offer-in-compromise, shall not apply to any offer-in-compromise with respect to a taxpayer who is an individual with adjusted gross income, as determined for the most recent taxable year for which such information is available, which does not exceed 250 percent of the applicable poverty level (as determined by the Secretary).

(d) STANDARDS FOR EVALUATION OF OFFERS.—

(1) IN GENERAL.—The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

(2) ALLOWANCES FOR BASIC LIVING EXPENSES.—

(A) IN GENERAL.—In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

(B) USE OF SCHEDULES.—The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

(3) SPECIAL RULES RELATING TO TREATMENT OF OFFERS.—The guidelines under paragraph (1) shall provide that—

(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer,

(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability; and

(ii) the taxpayer shall not be required to provide a financial statement, and

(C) any offer-in-compromise which does not meet the requirements of subparagraph (A)(i) or (B)(i), as the case may be, of subsection (c)(1) may be returned to the taxpayer as unprocessable.

(e) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures—

(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer; and

(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*.

(f) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken into account in determining the expiration of the 24-month period.

(g) FRIVOLOUS SUBMISSIONS, ETC..—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.

SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.

(a) EARLY REFERRAL TO APPEALS PROCEDURES.—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*.

(b) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—

(1) MEDIATION.—The Secretary shall prescribe procedures under which a taxpayer or the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* may request non-binding mediation on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(2) ARBITRATION.—The Secretary shall establish a pilot program under which a taxpayer and the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* may jointly request binding arbitration on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(c) ADMINISTRATIVE APPEAL RELATING TO ADVERSE DETERMINATION OF TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe procedures under which an organization which claims to be described in section 501(c) may request an administrative appeal (including a conference relating to such appeal if requested by the organization) to the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* of an adverse determination described in paragraph (2).

(2) ADVERSE DETERMINATIONS.—For purposes of paragraph (1), an adverse determination is described in this paragraph if such determination is adverse to an organization with respect to—

(A) the initial qualification or continuing qualification of the organization as exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) the initial classification or continuing classification of the organization as a private foundation under section 509(a), or

(C) the initial classification or continuing classification of the organization as a private operating foundation under section 4942(j)(3).

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter A—CRIMES

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PART I—GENERAL PROVISIONS

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SEC. 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—

(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by

him or another person under subsection (d), (i)(1)(C), (3)(B)(i), or (7)(A)(ii), (k)(10)*, (13), or (14)*, (*l*)(6), (7), (8), (9), (10), (12), (15), (16), (19), (20), or (21) or (m)(2), (4), (5), (6), or (7) of section 6103 or under section 6104(c). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(3) OTHER PERSONS.—It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(4) SOLICITATION.—It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(5) SHAREHOLDERS.—It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(b) DISCLOSURE OF OPERATIONS OF MANUFACTURER OR PRODUCER.—Any officer or employee of the United States who divulges or makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and the offender shall be dismissed from office or discharged from employment.

(c) DISCLOSURES BY CERTAIN DELEGATES OF SECRETARY.—All provisions of law relating to the disclosure of information, and all provisions of law relating to penalties for unauthorized disclosure of information, which are applicable in respect of any function under this title when performed by an officer or employee of the Treasury Department are likewise applicable in respect of such function when performed by any person who is a "delegate" within the meaning of section 7701(a)(12)(B).

(d) DISCLOSURE OF SOFTWARE.—Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000,

or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(e) CROSS REFERENCES.—

(1) PENALTIES FOR DISCLOSURE OF INFORMATION BY PREPARERS OF RETURNS.—For penalty for disclosure or use of information by preparers of returns, see section 7216.

(2) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—For penalties for disclosure of confidential information by any officer or employee of the United States or any department or agency thereof, see 18 U.S.C. 1905.

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SEC. 7216. DISCLOSURE OR USE OF INFORMATION BY PREPARERS OF RETURNS.

(a) GENERAL RULE.—Any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of the tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who knowingly or recklessly—

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than **[**$1,000**]** *$1,000 ($100,000 in the case of a disclosure or use to which section 6713(b) applies)*, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

(b) EXCEPTIONS.—

(1) DISCLOSURE.—Subsection (a) shall not apply to a disclosure of information if such disclosure is made—

(A) pursuant to any other provision of this title, or

(B) pursuant to an order of a court.

(2) USE.—Subsection (a) shall not apply to the use of information in the preparation of, or in connection with the preparation of, State and local tax returns and declarations of estimated tax of the person to whom the information relates.

(3) REGULATIONS.—Subsection (a) shall not apply to a disclosure or use of information which is permitted by regulations prescribed by the Secretary under this section. Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclosure or use of information for quality or peer reviews.

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CHAPTER 76—JUDICIAL PROCEEDINGS

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Subchapter B—PROCEEDINGS BY TAXPAYERS AND THIRD PARTIES

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SEC. 7430. AWARDING OF COSTS AND CERTAIN FEES.

(a) IN GENERAL.—In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

(2) reasonable litigation costs incurred in connection with such court proceeding.

(b) LIMITATIONS.—

(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) in any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service. Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.

(2) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

(3) COSTS DENIED WHERE PARTY PREVAILING PROTRACTS PROCEEDINGS.—No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

(4) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party.

(c) DEFINITIONS.—For purposes of this section—

(1) REASONABLE LITIGATION COSTS.—The term "reasonable litigation costs" includes—

(A) reasonable court costs, and

(B) based upon prevailing market rates for the kind or quality of services furnished—

(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of $125 per hour unless the court determines that a special factor, such as the limited availability of qualified attorneys for such proceeding, the difficulty of the issues presented in the case, or the local availability of tax expertise, justifies a higher rate.

In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting "calendar year 1995" for "calendar year 2016" in subparagraph (A)(ii) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

(2) REASONABLE ADMINISTRATIVE COSTS.—The term "reasonable administrative costs" means—

(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(C) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*; (ii) the date of the notice of deficiency; or (iii) the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* is sent.

(3) ATTORNEYS' FEES.—

(A) IN GENERAL.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

(B) PRO BONO SERVICES.—The court may award reasonable attorneys' fees under subsection (a) in excess of the attorneys' fees paid or incurred if such fees are less than the reasonable attorneys' fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual's employer.

(4) PREVAILING PARTY.—

(A) IN GENERAL.—The term "prevailing party" means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

(i) which—

(I) has substantially prevailed with respect to the amount in controversy, or

(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

(ii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) except to the extent differing procedures are established by rule of court and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

(B) EXCEPTION IF UNITED STATES ESTABLISHES THAT ITS POSITION WAS SUBSTANTIALLY JUSTIFIED.—

(i) GENERAL RULE.—A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

(ii) PRESUMPTION OF NO JUSTIFICATION IF INTERNAL REVENUE SERVICE DID NOT FOLLOW CERTAIN PUBLISHED GUIDANCE.—For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

(iii) EFFECT OF LOSING ON SUBSTANTIALLY SIMILAR ISSUES.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.

(iv) APPLICABLE PUBLISHED GUIDANCE.—For purposes of clause (ii), the term "applicable published guidance" means—

(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters.

(C) DETERMINATION AS TO PREVAILING PARTY.—Any determination under this paragraph as to whether a party is a prevailing party shall be made by agreement of the parties or—

(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

(ii) in the case where such final determination is made by a court, the court.

(D) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(ii) of this paragraph—

(i) the net worth limitation in clause (i) of such section shall apply to—

(I) an estate but shall be determined as of the date of the decedent's death, and

(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

(ii) individuals filing a joint return shall be treated as separate individuals for purposes of clause (i) of such section.

(E) SPECIAL RULES WHERE JUDGMENT LESS THAN TAXPAYER'S OFFER.—

(i) IN GENERAL.—A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

(ii) EXCEPTIONS.—This subparagraph shall not apply to—

(I) any judgment issued pursuant to a settlement; or

(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

(iii) SPECIAL RULES.—If this subparagraph applies to any court proceeding—

(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding; and

(II) reasonable administrative and litigation costs shall only include costs incurred on and after the date of such offer.

(iv) COORDINATION.—This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph.

(5) ADMINISTRATIVE PROCEEDINGS.—The term "administrative proceeding" means any procedure or other action before the Internal Revenue Service.

(6) COURT PROCEEDINGS.—The term "court proceeding" means any civil action brought in a court of the United States (including the Tax Court and the United States Court of Federal Claims).

(7) POSITION OF UNITED STATES.—The term "position of the United States" means—

(A) the position taken by the United States in a judicial proceeding to which subsection (a) applies, and

(B) the position taken in an administrative proceeding to which subsection (a) applies as of the earlier of—

(i) the date of the receipt by the taxpayer of the notice of the decision of the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*, or

(ii) the date of the notice of deficiency.

(d) SPECIAL RULES FOR PAYMENT OF COSTS.—

(1) REASONABLE ADMINISTRATIVE COSTS.—An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(2) REASONABLE LITIGATION COSTS.—An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

(e) MULTIPLE ACTIONS.—For purposes of this section, in the case of—

(1) multiple actions which could have been joined or consolidated, or

(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

(f) RIGHT OF APPEAL.—

(1) COURT PROCEEDINGS.—An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, may be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

(2) ADMINISTRATIVE PROCEEDINGS.—A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to the filing of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute). If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.

(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(g) QUALIFIED OFFER.—For purposes of subsection (c)(4)—

(1) IN GENERAL.—The term "qualified offer" means a written offer which—

(A) is made by the taxpayer to the United States during the qualified offer period;

(B) specifies the offered amount of the taxpayer's liability (determined without regard to interest);

(C) is designated at the time it is made as a qualified offer for purposes of this section; and

(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

(2) QUALIFIED OFFER PERIOD.—For purposes of this subsection, the term "qualified offer period" means the period—

(A) beginning on the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals* is sent, and

(B) ending on the date which is 30 days before the date the case is first set for trial.

SEC. 7431. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—

(1) INSPECTION OR DISCLOSURE BY EMPLOYEE OF UNITED STATES.—If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) INSPECTION OR DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103 or in violation of section 6104(c), such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

(1) which results from a good faith, but erroneous, interpretation of section 6103, or

(2) which is requested by the taxpayer.

(c) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(1) the greater of—

(A) $1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of—

(i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

(2) the costs of the action, plus

(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).

(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

(1) paragraph (1) or (2) of section 7213(a),

(2) section 7213A(a), or

(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure. *The Secretary shall also notify such taxpayer if the Internal Revenue Service or a Federal or State agency (upon notice to the Secretary by such Federal or State agency) proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the unauthorized inspection or disclosure and the rights of the taxpayer under such administrative determination.*

(f) DEFINITIONS.—For purposes of this section, the terms "inspect", "inspection", "return", and "return information" have the respective meanings given such terms by section 6103(b).

(g) EXTENSION TO INFORMATION OBTAINED UNDER SECTION 3406.—For purposes of this section—

(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

(2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

(h) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(K)(9).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).

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CHAPTER 77—MISCELLANEOUS PROVISIONS

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SEC. 7522. CONTENT OF TAX DUE, DEFICIENCY, AND OTHER NOTICES.

(a) GENERAL RULE.—Any notice to which this section applies shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice.

(b) NOTICES TO WHICH SECTION APPLIES.—This section shall apply to—

(1) any tax due notice or deficiency notice described in section 6155, 6212, or 6303,

(2) any notice generated out of any information return matching program, and

(3) the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*.

* * * * * * *

SEC. 7526. LOW-INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low-income taxpayer clinics.

(b) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED LOW-INCOME TAXPAYER CLINIC.—

(A) IN GENERAL.—The term "qualified low-income taxpayer clinic" means a clinic that—

(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred); and

(ii)(I) represents low-income taxpayers in controversies with the Internal Revenue Service; or

(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

(B) REPRESENTATION OF LOW-INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accord-

ance with criteria established by the Director of the Office of Management and Budget; and

(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

(2) CLINIC.—The term "clinic" includes—

(A) a clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

(3) QUALIFIED REPRESENTATIVE.—The term "qualified representative" means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

(c) SPECIAL RULES AND LIMITATIONS.—

(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $6,000,000 per year (exclusive of costs of administering the program) to grants under this section.

(2) LIMITATION ON ANNUAL GRANTS TO A CLINIC.—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed $100,000.

(3) MULTI-YEAR GRANTS.—Upon application of a qualified low-income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language;

(B) the existence of other low-income taxpayer clinics serving the same population;

(C) the quality of the program offered by the low-income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low-income taxpayers; and

(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

(5) REQUIREMENT OF MATCHING FUNDS.—A low-income taxpayer clinic must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include—

(A) the salary (including fringe benefits) of individuals performing services for the clinic; and

(B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.

(6) PROVISION OF INFORMATION REGARDING QUALIFIED LOW-INCOME TAXPAYER CLINICS.—Notwithstanding any other provi-

sion of law, officers and employees of the Department of the Treasury may—

(A) advise taxpayers of the availability of, and eligibility requirements for receiving, advice and assistance from one or more specific qualified low-income taxpayer clinics receiving funding under this section, and

(B) provide information regarding the location of, and contact information for, such clinics.

SEC. 7526A. RETURN PREPARATION PROGRAMS FOR APPLICABLE TAXPAYERS.

(a) ESTABLISHMENT OF VOLUNTEER INCOME TAX ASSISTANCE MATCHING GRANT PROGRAM.—The Secretary shall establish a Community Volunteer Income Tax Assistance Matching Grant Program under which the Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation programs assisting applicable taxpayers and members of underserved populations.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Qualified return preparation programs may use grants received under this section for—

(A) ordinary and necessary costs associated with program operation in accordance with cost principles under the applicable Office of Management and Budget circular, including—

(i) wages or salaries of persons coordinating the activities of the program,

(ii) developing training materials, conducting training, and performing quality reviews of the returns prepared under the program,

(iii) equipment purchases, and

(iv) vehicle-related expenses associated with remote or rural tax preparation services,

(B) outreach and educational activities described in subsection (c)(2)(B), and

(C) services related to financial education and capability, asset development, and the establishment of savings accounts in connection with tax return preparation.

(2) REQUIREMENT OF MATCHING FUNDS.—A qualified return preparation program must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include—

(A) the salary (including fringe benefits) of individuals performing services for the program,

(B) the cost of equipment used in the program, and

(C) other ordinary and necessary costs associated with the program.

Indirect expenses, including general overhead of any entity administering the program, shall not be counted as matching funds.

(c) APPLICATION.—

(1) IN GENERAL.—Each applicant for a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications which demonstrate—

(A) assistance to applicable taxpayers, with emphasis on outreach to, and services for, such taxpayers,

(B) taxpayer outreach and educational activities relating to eligibility and availability of income supports available through this title, including the earned income tax credit, and

(C) specific outreach and focus on one or more underserved populations.

(3) AMOUNTS TAKEN INTO ACCOUNT.—In determining matching grants under this section, the Secretary shall only take into account amounts provided by the qualified return preparation program for expenses described in subsection (b).

(d) PROGRAM ADHERENCE.—

(1) IN GENERAL.—The Secretary shall establish procedures for, and shall conduct not less frequently than once every 5 calendar years during which a qualified return preparation program is operating under a grant under this section, periodic site visits—

(A) to ensure the program is carrying out the purposes of this section, and

(B) to determine whether the program meets such program adherence standards as the Secretary shall by regulation or other guidance prescribe.

(2) ADDITIONAL REQUIREMENTS FOR GRANT RECIPIENTS NOT MEETING PROGRAM ADHERENCE STANDARDS.—In the case of any qualified return preparation program which—

(A) is awarded a grant under this section, and

(B) is subsequently determined—

(i) not to meet the program adherence standards described in paragraph (1)(B), or

(ii) not to be otherwise carrying out the purposes of this section,

such program shall not be eligible for any additional grants under this section unless such program provides sufficient documentation of corrective measures established to address any such deficiencies determined.

(e) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED RETURN PREPARATION PROGRAM.—The term "qualified return preparation program" means any program—

(A) which provides assistance to individuals, not less than 90 percent of whom are applicable taxpayers, in preparing and filing Federal income tax returns,

(B) which is administered by a qualified entity,

(C) in which all volunteers who assist in the preparation of Federal income tax returns meet the training requirements prescribed by the Secretary, and

(D) which uses a quality review process which reviews 100 percent of all returns.

(2) QUALIFIED ENTITY.—

(A) IN GENERAL.—The term "qualified entity" means any entity which—

(i) is an eligible organization,

(ii) is in compliance with Federal tax filing and payment requirements,

(iii) is not debarred or suspended from Federal contracts, grants, or cooperative agreements, and

(iv) agrees to provide documentation to substantiate any matching funds provided pursuant to the grant program under this section.

(B) ELIGIBLE ORGANIZATION.—The term "eligible organization" means—

(i) an institution of higher education which is described in section 102 (other than subsection (a)(1)(C) thereof) of the Higher Education Act of 1965 (20 U.S.C. 1002), as in effect on the date of the enactment of this section, and which has not been disqualified from participating in a program under title IV of such Act,

(ii) an organization described in section 501(c) and exempt from tax under section 501(a),

(iii) a local government agency, including—

(I) a county or municipal government agency, and

(II) an Indian tribe, as defined in section 4(13) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(13)), including any tribally designated housing entity (as defined in section 4(22) of such Act (25 U.S.C. 4103(22))), tribal subsidiary, subdivision, or other wholly owned tribal entity,

(iv) a local, State, regional, or national coalition (with one lead organization which meets the eligibility requirements of clause (i), (ii), or (iii) acting as the applicant organization), or

(v) in the case of applicable taxpayers and members of underserved populations with respect to which no organizations described in the preceding clauses are available—

(I) a State government agency, or

(II) an office providing Cooperative Extension services (as established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914).

(3) APPLICABLE TAXPAYERS.—The term "applicable taxpayer" means a taxpayer whose income for the taxable year does not exceed an amount equal to the completed phaseout amount under section 32(b) for a married couple filing a joint return with three or more qualifying children, as determined in a revenue procedure or other published guidance.

(4) UNDERSERVED POPULATION.—The term "underserved population" includes populations of persons with disabilities, persons with limited English proficiency, Native Americans, individuals living in rural areas, members of the Armed Forces and their spouses, and the elderly.

(f) SPECIAL RULES AND LIMITATIONS.—

(1) DURATION OF GRANTS.—Upon application of a qualified return preparation program, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

(2) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $30,000,000 per fiscal year (exclusive of costs of administering the program) to grants under this section.

(g) PROMOTION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall promote tax preparation through qualified return preparation programs through the use of mass communications and other means.

(2) PROVISION OF INFORMATION REGARDING QUALIFIED RETURN PREPARATION PROGRAMS.—The Secretary may provide taxpayers information regarding qualified return preparation programs receiving grants under this section.

(3) REFERRALS TO LOW-INCOME TAXPAYER CLINICS.—Qualified return preparation programs receiving a grant under this section are encouraged, in appropriate cases, to—

(A) advise taxpayers of the availability of, and eligibility requirements for receiving, advice and assistance from qualified low-income taxpayer clinics receiving funding under section 7526, and

(B) provide information regarding the location of, and contact information for, such clinics.

* * * * * * *

SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY THEFT.

(a) IN GENERAL.—If the Secretary determines that there has been or may have been an unauthorized use of the identity of any individual, the Secretary shall, without jeopardizing an investigation relating to tax administration—

(1) as soon as practicable—

(A) notify the individual of such determination,

(B) provide instructions on how to file a report with law enforcement regarding the unauthorized use,

(C) identify any steps to be taken by the individual to permit law enforcement to access personal information of the individual during the investigation,

(D) provide information regarding actions the individual may take in order to protect the individual from harm relating to the unauthorized use, and

(E) offer identity protection measures to the individual, such as the use of an identity protection personal identification number, and

(2) at the time the information described in paragraph (1) is provided (or, if not available at such time, as soon as practicable thereafter), issue additional notifications to such individual (or such individual's designee) regarding—

(A) whether an investigation has been initiated in regards to such unauthorized use,

(B) whether the investigation substantiated an unauthorized use of the identity of the individual, and

(C) whether—

(i) any action has been taken against a person relating to such unauthorized use, or

(ii) any referral has been made for criminal prosecution of such person and, to the extent such information

is available, whether such person has been criminally charged by indictment or information.

(b) EMPLOYMENT-RELATED IDENTITY THEFT.—

(1) IN GENERAL.—For purposes of this section, the unauthorized use of the identity of an individual includes the unauthorized use of the identity of the individual to obtain employment.

(2) DETERMINATION OF EMPLOYMENT-RELATED IDENTITY THEFT.—For purposes of this section, in making a determination as to whether there has been or may have been an unauthorized use of the identity of an individual to obtain employment, the Secretary shall review any information—

(A) obtained from a statement described in section 6051 or an information return relating to compensation for services rendered other than as an employee, or

(B) provided to the Internal Revenue Service by the Social Security Administration regarding any statement described in section 6051,

which indicates that the social security account number provided on such statement or information return does not correspond with the name provided on such statement or information return or the name on the tax return reporting the income which is included on such statement or information return.

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CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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Subchapter A—EXAMINATION AND INSPECTION

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SEC. 7602. EXAMINATION OF BOOKS AND WITNESSES.

(a) AUTHORITY TO SUMMON, ETC..—For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary is authorized—

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary may deem proper, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

(c) NOTICE OF CONTACT OF THIRD PARTIES.—

[(1) GENERAL NOTICE.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made.]

(1) GENERAL NOTICE.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer unless such contact occurs during a period (not greater than 1 year) which is specified in a notice which—

(A) informs the taxpayer that contacts with persons other than the taxpayer are intended to be made during such period, and

(B) except as otherwise provided by the Secretary, is provided to the taxpayer not later than 45 days before the beginning of such period.

Nothing in the preceding sentence shall prevent the issuance of notices to the same taxpayer with respect to the same tax liability with periods specified therein that, in the aggregate, exceed 1 year. A notice shall not be issued under this paragraph unless there is an intent at the time such notice is issued to contact persons other than the taxpayer during the period specified in such notice. The preceding sentence shall not prevent the issuance of a notice if the requirement of such sentence is met on the basis of the assumption that the information sought to be obtained by such contact will not be obtained by other means before such contact.

(2) NOTICE OF SPECIFIC CONTACTS.—The Secretary shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.

(3) EXCEPTIONS.—This subsection shall not apply—

(A) to any contact which the taxpayer has authorized;

(B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person; or

(C) with respect to any pending criminal investigation.

(d) NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.—

(1) LIMITATION OF AUTHORITY.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

(2) JUSTICE DEPARTMENT REFERRAL IN EFFECT.—For purposes of this subsection—

(A) IN GENERAL.—A Justice Department referral is in effect with respect to any person if—

(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

(i) the Attorney General notifies the Secretary, in writing, that—

(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

(III) he will discontinue such a grand jury investigation,

(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

(3) TAXABLE YEARS, ETC., TREATED SEPARATELY.—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately.

(e) LIMITATION ON EXAMINATION ON UNREPORTED INCOME.—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.

(f) LIMITATION ON ACCESS OF PERSONS OTHER THAN INTERNAL REVENUE SERVICE OFFICERS AND EMPLOYEES.—The Secretary shall not, under the authority of section 6103(n), provide any books, papers, records, or other data obtained pursuant to this section to any person authorized under section 6103(n), except when such person requires such information for the sole purpose of providing expert evaluation and assistance to the Internal Revenue Service. No person other than an officer or employee of the Internal Revenue Service or the Office of Chief Counsel may, on behalf of the Secretary, question a witness under oath whose testimony was obtained pursuant to this section.

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SEC. 7609. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) NOTICE.—

(1) IN GENERAL.—If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 23rd day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons.

(2) SUFFICIENCY OF NOTICE.—Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

(3) NATURE OF SUMMONS.—Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(D)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

(b) RIGHT TO INTERVENE; RIGHT TO PROCEEDING TO QUASH.—

(1) INTERVENTION.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

(2) PROCEEDING TO QUASH.—

(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

(B) REQUIREMENT OF NOTICE TO PERSON SUMMONED AND TO SECRETARY.—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified

mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

(C) INTERVENTION; ETC..—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding).

(c) SUMMONS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7612.

(2) EXCEPTIONS.—This section shall not apply to any summons—

(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person;

(B) issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept;

(C) issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A);

(D) issued in aid of the collection of—

(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued; or

(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i); or

(E)(i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws; and

(ii) served on any person who is not a third-party recordkeeper (as defined in section 7603(b)).

(3) JOHN DOE AND CERTAIN OTHER SUMMONSES.—Subsection (a) shall not apply to any summons described in subsection (f) or (g).

(4) RECORDS.—For purposes of this section, the term "records" includes books, papers, and other data.

(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash.

(e) SUSPENSION OF STATUTE OF LIMITATIONS.—

(1) SUBSECTION (B) ACTION.—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

(2) SUSPENSION AFTER 6 MONTHS OF SERVICE OF SUMMONS.—In the absence of the resolution of the summoned party's response to the summons, the running of any period of limitations under section 6501 or under section 6531 with respect to any person with respect to whose liability the summons is issued (other than a person taking action as provided in subsection (b)) shall be suspended for the period—

(A) beginning on the date which is 6 months after the service of such summons, and

(B) ending with the final resolution of such response.

(f) ADDITIONAL REQUIREMENT IN THE CASE OF A JOHN DOE SUMMONS.—Any summons described in subsection (c)(1) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

(3) the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

The Secretary shall not issue any summons described in the preceding sentence unless the information sought to be obtained is narrowly tailored to information that pertains to the failure (or potential failure) of the person or group or class of persons referred to in paragraph (2) to comply with one or more provisions of the internal revenue law which have been identified for purposes of such paragraph.

(g) SPECIAL EXCEPTION FOR CERTAIN SUMMONSES.—A summons is described in this subsection if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(h) JURISDICTION OF DISTRICT COURT; ETC..—

(1) JURISDICTION.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order de-

nying the petition shall be deemed a final order which may be appealed.

(2) SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (F) AND (G).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

(i) DUTY OF SUMMONED PARTY.—

(1) RECORDKEEPER MUST ASSEMBLE RECORDS AND BE PREPARED TO PRODUCE RECORDS.—On receipt of a summons to which this section applies for the production of records, the summoned party shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

(2) SECRETARY MAY GIVE SUMMONED PARTY CERTIFICATE.—The Secretary may issue a certificate to the summoned party that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

(3) PROTECTION FOR SUMMONED PARTY WHO DISCLOSES.—Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.

(4) NOTICE OF SUSPENSION OF STATUTE OF LIMITATIONS IN THE CASE OF A JOHN DOE SUMMONS.—In the case of a summons described in subsection (f) with respect to which any period of limitations has been suspended under subsection (e)(2), the summoned party shall provide notice of such suspension to any person described in subsection (f).

(j) USE OF SUMMONS NOT REQUIRED.—Nothing in this section shall be construed to limit the Secretary's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.

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SEC. 7612. SPECIAL PROCEDURES FOR SUMMONSES FOR COMPUTER SOFTWARE.

(a) GENERAL RULE.—For purposes of this title—

(1) except as provided in subsection (b), no summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons to produce or analyze any tax-related computer software source code; and

(2) any software and related materials which are provided to the Secretary under this title shall be subject to the safeguards under subsection (c).

(b) CIRCUMSTANCES UNDER WHICH COMPUTER SOFTWARE SOURCE CODE MAY BE PROVIDED.—

(1) IN GENERAL.—Subsection (a)(1) shall not apply to any portion, item, or component of tax-related computer software source code if—

(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

(i) the taxpayer's books, papers, records, or other data; or

(ii) the computer software executable code (and any modifications thereof) to which such source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item;

(B) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return; and

(C) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.

(2) EXCEPTIONS.—Subsection (a)(1) shall not apply to—

(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws;

(B) any tax-related computer software source code acquired or developed by the taxpayer or a related person primarily for internal use by the taxpayer or such person rather than for commercial distribution;

(C) any communications between the owner of the tax-related computer software source code and the taxpayer or related persons; or

(D) any tax-related computer software source code which is required to be provided or made available pursuant to any other provision of this title.

(3) COOPERATION REQUIRED.—For purposes of paragraph (1), the Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) of such paragraph if—

(A) the Secretary determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in paragraph (1)(A)(ii);

(B) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code; and

(C) such code and data is not provided within 180 days of such request.

(4) RIGHT TO CONTEST SUMMONS.—In any proceeding brought under section 7604 to enforce a summons issued under the authority of this subsection, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this subsection have been met.

(c) SAFEGUARDS TO ENSURE PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—

(1) ENTRY OF PROTECTIVE ORDER.—In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such software, including requiring that any information be placed under seal to be opened only as directed by the court.

(2) PROTECTION OF SOFTWARE.—Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

(A) the software may be used only in connection with the examination of such taxpayer's return, any appeal by the taxpayer to the [Internal Revenue Service Office of Appeals] *Internal Revenue Service Independent Office of Appeals*, any judicial proceeding (and any appeals therefrom), and any inquiry into any offense connected with the administration or enforcement of the internal revenue laws;

(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software;

(C) the software shall be maintained in a secure area or place, and, in the case of computer software source code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, such removal;

(D) the software may not be copied except as necessary to perform such analysis, and the Secretary shall number all copies made and certify in writing that no other copies have been (or will be) made;

(E) at the end of the period during which the software may be used under subparagraph (A)—

(i) the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted; and

(ii) the Secretary shall obtain from any person who analyzes or otherwise had access to such software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them;

(F) the software may not be decompiled or disassembled;

(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement, between the Secretary and any person who is not an officer or employee of the United States and who will analyze or otherwise have access to such software, which provides that such person agrees not to—

(i) disclose such software to any person other than persons to whom such information could be disclosed for tax administration purposes under section 6103; or

(ii) participate for 2 years in the development of software which is intended for a similar purpose as the software examined; and

(H) the software shall be treated as return information for purposes of section 6103.

For purposes of subparagraph (C), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises. The owner of any interest in the software

shall be considered a party to any agreement described in subparagraph (G).

(d) DEFINITIONS.—For purposes of this section—

(1) SOFTWARE.—The term "software" includes computer software source code and computer software executable code.

(2) COMPUTER SOFTWARE SOURCE CODE.—The term "computer software source code" means—

(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons and is not capable of directly being used to give instructions to a computer;

(B) related programmers' notes, design documents, memoranda, and similar documentation; and

(C) related customer communications.

(3) COMPUTER SOFTWARE EXECUTABLE CODE.—The term "computer software executable code" means—

(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions; and

(B) any related user manuals.

(4) OWNER.—The term "owner" shall, with respect to any software, include the developer of the software.

(5) RELATED PERSON.—A person shall be treated as related to another person if such persons are related persons under section 267 or 707(b).

(6) TAX-RELATED COMPUTER SOFTWARE SOURCE CODE.—The term "tax-related computer software source code" means the computer source code for any computer software program intended for accounting, tax return preparation or compliance, or tax planning.

Subchapter B—GENERAL POWERS AND DUTIES

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SEC. 7623. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

(a) IN GENERAL.—The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deems necessary for—

(1) detecting underpayments of tax, or

(2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts collected by reason of the information provided, and any amount so collected shall be available for such payments.

(b) AWARDS TO WHISTLEBLOWERS.—

(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the proceeds collected as a result of the action (including any

related actions) or from any settlement in response to such action (determined without regard to whether such proceeds are available to the Secretary). The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds collected as a result of the action (including any related actions) or from any settlement in response to such action (determined without regard to whether such proceeds are available to the Secretary), taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

(3) REDUCTION IN OR DENIAL OF AWARD.—If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

(4) APPEAL OF AWARD DETERMINATION.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

(5) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

(B) if the proceeds in dispute exceed $2,000,000.

(6) ADDITIONAL RULES.—

(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

(C) SUBMISSION OF INFORMATION.—No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.

(c) PROCEEDS.—For purposes of this section, the term "proceeds" includes—

(1) penalties, interest, additions to tax, and additional amounts provided under the internal revenue laws, and

(2) any proceeds arising from laws for which the Internal Revenue Service is authorized to administer, enforce, or investigate, including—

(A) criminal fines and civil forfeitures, and

(B) violations of reporting requirements.

(d) CIVIL ACTION TO PROTECT AGAINST RETALIATION CASES.—

(1) ANTI-RETALIATION WHISTLEBLOWER PROTECTION FOR EMPLOYEES.—No employer, or any officer, employee, contractor, subcontractor, or agent of such employer, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment (including through an act in the ordinary course of such employee's duties) in reprisal for any lawful act done by the employee—

(A) to provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud, when the information or assistance is provided to the Internal Revenue Service, the Secretary of Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct, or

(B) to testify, participate in, or otherwise assist in any administrative or judicial action taken by the Internal Revenue Service relating to an alleged underpayment of tax or any violation of the internal revenue laws or any provision of Federal law relating to tax fraud.

(2) ENFORCEMENT ACTION.—

(A) IN GENERAL.—A person who alleges discharge or other reprisal by any person in violation of paragraph (1) may seek relief under paragraph (3) by—

(i) filing a complaint with the Secretary of Labor, or

(ii) if the Secretary of Labor has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(B) PROCEDURE.—

(i) IN GENERAL.—An action under subparagraph (A)(i) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(ii) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

(iii) BURDENS OF PROOF.—An action brought under subparagraph (A)(ii) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code, except that in applying such section—

(I) "behavior described in paragraph (1)" shall be substituted for "behavior described in paragraphs (1) through (4) of subsection (a)" each place it appears in paragraph (2)(B) thereof, and

(II) "a violation of paragraph (1)" shall be substituted for "a violation of subsection (a)" each place it appears.

(iv) STATUTE OF LIMITATIONS.—A complaint under subparagraph (A)(i) shall be filed not later than 180 days after the date on which the violation occurs.

(v) JURY TRIAL.—A party to an action brought under subparagraph (A)(ii) shall be entitled to trial by jury.

(3) REMEDIES.—

(A) IN GENERAL.—An employee prevailing in any action under paragraph (2)(A) shall be entitled to all relief necessary to make the employee whole.

(B) COMPENSATORY DAMAGES.—Relief for any action under subparagraph (A) shall include—

(i) reinstatement with the same seniority status that the employee would have had, but for the reprisal,

(ii) the sum of 200 percent of the amount of back pay and 100 percent of all lost benefits, with interest, and

(iii) compensation for any special damages sustained as a result of the reprisal, including litigation costs, expert witness fees, and reasonable attorney fees.

(4) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

(5) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(A) WAIVER OF RIGHTS AND REMEDIES.—The rights and remedies provided for in this subsection may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(B) PREDISPUTE ARBITRATION AGREEMENTS.—No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this subsection.

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CHAPTER 80—GENERAL RULES

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Subchapter A—APPLICATION OF INTERNAL REVENUE LAWS

SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) COMMISSIONER OF INTERNAL REVENUE.—

(1) APPOINTMENT.—

(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

(B) TERM.—The term of the Commissioner of Internal Revenue shall be a 5-year term, beginning with a term to commence on November 13, 1997. Each subsequent term shall begin on the day after the date on which the previous term expires.

(C) VACANCY.—Any individual appointed as Commissioner of Internal Revenue during a term as defined in subparagraph (B) shall be appointed for the remainder of that term.

(D) REMOVAL.—The Commissioner may be removed at the will of the President.

(E) REAPPOINTMENT.—The Commissioner may be appointed to serve more than one term.

(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) EXECUTION OF DUTIES IN ACCORD WITH TAXPAYER RIGHTS.—In discharging his duties, the Commissioner shall ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title, including—

(A) the right to be informed,

(B) the right to quality service,

(C) the right to pay no more than the correct amount of tax,

(D) the right to challenge the position of the Internal Revenue Service and be heard,

(E) the right to appeal a decision of the Internal Revenue Service in an independent forum,

(F) the right to finality,

(G) the right to privacy,

(H) the right to confidentiality,

(I) the right to retain representation, and

(J) the right to a fair and just tax system.

(4) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty—

(A) to be legal advisor to the Commissioner and the Commissioner's officers and employees;

(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice;

(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive orders relating to laws which affect the Internal Revenue Service;

(D) to represent the Commissioner in cases before the Tax Court; and

(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) PERSONS TO WHOM CHIEF COUNSEL REPORTS.—The Chief Counsel shall report directly to the Commissioner of Internal Revenue, except that—

(A) the Chief Counsel shall report to both the Commissioner and the General Counsel for the Department of the Treasury with respect to—

(i) legal advice or interpretation of the tax law not relating solely to tax policy;

(ii) tax litigation; and

(B) the Chief Counsel shall report to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.

If there is any disagreement between the Commissioner and the General Counsel with respect to any matter jointly referred to them under subparagraph (A), such matter shall be submitted to the Secretary or Deputy Secretary for resolution.

(4) CHIEF COUNSEL PERSONNEL.—All personnel in the Office of Chief Counsel shall report to the Chief Counsel.

(c) OFFICE OF THE TAXPAYER ADVOCATE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the "Office of the Taxpayer Advocate".

(B) NATIONAL TAXPAYER ADVOCATE.—

(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the "National Taxpayer Advocate". The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code[, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title].

(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(iii) QUALIFICATIONS.—An individual appointed under clause (ii) shall have—

(I) a background in customer service as well as tax law; and

(II) experience in representing individual taxpayers.

(iv) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer

Advocate shall not be taken into account in applying this clause.

(2) FUNCTIONS OF OFFICE.—

(A) IN GENERAL.—It shall be the function of the Office of the Taxpayer Advocate to—

(i) assist taxpayers in resolving problems with the Internal Revenue Service;

(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;

(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and

(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

(B) ANNUAL REPORTS.—

(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness;

(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811;

(III) contain a summary of [at least 20 of the] *the 10* most serious problems encountered by taxpayers, including a description of the nature of such problems;

(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action;

(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory;

(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each

item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction;

(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b);

(VIII) identify any Taxpayer Advocate Directive which was not honored by the Internal Revenue Service in a timely manner, as specified under paragraph (5);

[(VIII)**]** *(IX)* contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers;

[(IX)**]** *(X)* identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems;

[(X)**]** *(XI)* identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes; **[**and**]**

(XII) with respect to any statistical information included in such report, include a statement of whether such statistical information was reviewed or provided by the Secretary under section 6108(d) and, if so, whether the Secretary determined such information to be statistically valid and based on sound statistical methodology; and

[(XI)**]** *(XIII)* include such other information as the National Taxpayer Advocate may deem advisable.

(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget. *The preceding sentence shall not apply with respect to statistical information provided to the Secretary for review, or received from the Secretary, under section 6108(d).*

(iv) COORDINATION WITH REPORT OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates;

(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates;

(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office; and

(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

(D) PERSONNEL ACTIONS.—

(i) IN GENERAL.—The National Taxpayer Advocate shall have the responsibility and authority to—

(I) appoint local taxpayer advocates and make available at least 1 such advocate for each State; and

(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

(E) COORDINATION WITH TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Before beginning any research or study, the National Taxpayer Advocate shall coordinate with the Treasury Inspector General for Tax Administration to ensure that the National Taxpayer Advocate does not duplicate any action that the Treasury Inspector General for Tax Administration has already undertaken or has a plan to undertake.

(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

(4) OPERATION OF LOCAL OFFICES.—

(A) IN GENERAL.—Each local taxpayer advocate—

(i) shall report to the National Taxpayer Advocate or delegate thereof;

(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate;

(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate; and

(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

(5) TAXPAYER ADVOCATE DIRECTIVES.—In the case of any Taxpayer Advocate Directive issued by the National Taxpayer Advocate pursuant to a delegation of authority from the Commissioner of Internal Revenue—

(A) the Commissioner or a Deputy Commissioner shall modify, rescind, or ensure compliance with such directive not later than 90 days after the issuance of such directive, and

(B) in the case of any directive which is modified or rescinded by a Deputy Commissioner, the National Taxpayer Advocate may (not later than 90 days after such modification or rescission) appeal to the Commissioner, and the Commissioner shall (not later than 90 days after such appeal is made) ensure compliance with such directive as issued by the National Taxpayer Advocate or provide the National Taxpayer Advocate with the reasons for any modification or rescission made or upheld by the Commissioner pursuant to such appeal.

(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

(1) ANNUAL REPORTING.—The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

(A) an evaluation of the compliance of the Internal Revenue Service with—

(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees;

(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted;

(iii) required procedures under section 6320 upon the filing of a notice of a lien;

(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 regarding levies; and

(v) restrictions under section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers;

(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return;

(C) information regarding extensions of the statute of limitations for assessment and collection of tax under sec-

tion 6501 and the provision of notice to taxpayers regarding requests for such extension;

(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service;

(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998;

(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A); and

(G) information regarding any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304, including—

(i) a summary of such actions initiated since the date of the last report; and

(ii) a summary of any judgments or awards granted as a result of such actions.

(2) SEMIANNUAL REPORTS.—(A) IN GENERAL.—.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

(i) the number of taxpayer complaints during the reporting period;

(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources;

(iii) a summary of the status of such complaints and allegations; and

(iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

(B) Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

(3) OTHER RESPONSIBILITIES.—The Treasury Inspector General for Tax Administration shall—

(A) conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code;

(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1); and

(C) not later than December 31, 2010, submit a written report to Congress on the implementation of section 6103(k)(10).

(e) INDEPENDENT OFFICE OF APPEALS.—

(1) ESTABLISHMENT.—There is established in the Internal Revenue Service an office to be known as the "Internal Revenue Service Independent Office of Appeals".

(2) CHIEF OF APPEALS.—

(A) IN GENERAL.—The Internal Revenue Service Independent Office of Appeals shall be under the supervision and direction of an official to be known as the "Chief of Appeals". The Chief of Appeals shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(B) APPOINTMENT.—The Chief of Appeals shall be appointed by the Commissioner of Internal Revenue without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(C) QUALIFICATIONS.—An individual appointed under subparagraph (B) shall have experience and expertise in—

(i) administration of, and compliance with, Federal tax laws,

(ii) a broad range of compliance cases, and

(iii) management of large service organizations.

(3) PURPOSES AND DUTIES OF OFFICE.—It shall be the function of the Internal Revenue Service Independent Office of Appeals to resolve Federal tax controversies without litigation on a basis which—

(A) is fair and impartial to both the Government and the taxpayer,

(B) promotes a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and

(C) enhances public confidence in the integrity and efficiency of the Internal Revenue Service.

(4) RIGHT OF APPEAL.—The resolution process described in paragraph (3) shall be generally available to all taxpayers.

(5) LIMITATION ON DESIGNATION OF CASES AS NOT ELIGIBLE FOR REFERRAL TO INDEPENDENT OFFICE OF APPEALS.—

(A) IN GENERAL.—If any taxpayer which is in receipt of a notice of deficiency authorized under section 6212 requests referral to the Internal Revenue Service Independent Office of Appeals and such request is denied, the Commissioner of Internal Revenue shall provide such taxpayer a written notice which—

(i) provides a detailed description of the facts involved, the basis for the decision to deny the request, and a detailed explanation of how the basis of such decision applies to such facts, and

(ii) describes the procedures prescribed under subparagraph (C) for protesting the decision to deny the request.

(B) REPORT TO CONGRESS.—The Commissioner of Internal Revenue shall submit a written report to Congress on an annual basis which includes the number of requests described in subparagraph (A) which were denied and the

reasons (described by category) that such requests were denied.

(C) PROCEDURES FOR PROTESTING DENIAL OF REQUEST.—The Commissioner of Internal Revenue shall prescribe procedures for protesting to the Commissioner of Internal Revenue a denial of a request described in subparagraph (A).

(D) NOT APPLICABLE TO FRIVOLOUS POSITIONS.—This paragraph shall not apply to a request for referral to the Internal Revenue Service Independent Office of Appeals which is denied on the basis that the issue involved is a frivolous position (within the meaning of section 6702(c)).

(6) STAFF.—

(A) IN GENERAL.—All personnel in the Internal Revenue Service Independent Office of Appeals shall report to the Chief of Appeals.

(B) ACCESS TO STAFF OF OFFICE OF THE CHIEF COUNSEL.—The Chief of Appeals shall have authority to obtain legal assistance and advice from the staff of the Office of the Chief Counsel. The Chief Counsel shall ensure, to the extent practicable, that such assistance and advice is provided by staff of the Office of the Chief Counsel who were not involved in the case with respect to which such assistance and advice is sought and who are not involved in preparing such case for litigation.

(7) ACCESS TO CASE FILES.—

(A) IN GENERAL.—In any case in which a conference with the Internal Revenue Service Independent Office of Appeals has been scheduled upon request of a specified taxpayer, the Chief of Appeals shall ensure that such taxpayer is provided access to the nonprivileged portions of the case file on record regarding the disputed issues (other than documents provided by the taxpayer to the Internal Revenue Service) not later than 10 days before the date of such conference.

(B) TAXPAYER ELECTION TO EXPEDITE CONFERENCE.—If the taxpayer so elects, subparagraph (A) shall be applied by substituting "the date of such conference" for "10 days before the date of such conference".

(C) SPECIFIED TAXPAYER.—For purposes of this paragraph—

(i) IN GENERAL.—The term "specified taxpayer" means—

(I) in the case of any taxpayer who is a natural person, a taxpayer whose adjusted gross income does not exceed $400,000 for the taxable year to which the dispute relates, and

(II) in the case of any other taxpayer, a taxpayer whose gross receipts do not exceed $5,000,000 for the taxable year to which the dispute relates.

(ii) AGGREGATION RULE.—Rules similar to the rules of section 448(c)(2) shall apply for purposes of clause (i)(II).

(f) INTERNAL REVENUE SERVICE CHIEF INFORMATION OFFICER.—

(1) IN GENERAL.—There shall be in the Internal Revenue Service an Internal Revenue Service Chief Information Officer

(hereafter referred to in this subsection as the "IRS CIO") who shall be appointed by the Commissioner of Internal Revenue.

(2) CENTRALIZED RESPONSIBILITY FOR INTERNAL REVENUE SERVICE INFORMATION TECHNOLOGY.—The Commissioner of Internal Revenue (and the Secretary) shall act through the IRS CIO with respect to all development, implementation, and maintenance of information technology for the Internal Revenue Service. Any reference in this subsection to the IRS CIO which directs the IRS CIO to take any action, or to assume any responsibility, shall be treated as a reference to the Commissioner of Internal Revenue acting through the IRS CIO.

(3) GENERAL DUTIES AND RESPONSIBILITIES.—The IRS CIO shall—

(A) be responsible for the development, implementation, and maintenance of information technology for the Internal Revenue Service,

(B) ensure that the information technology of the Internal Revenue Service is secure and integrated,

(C) maintain operational control of all information technology for the Internal Revenue Service,

(D) be the principal advocate for the information technology needs of the Internal Revenue Service, and

(E) consult with the Chief Procurement Officer of the Internal Revenue Service to ensure that the information technology acquired for the Internal Revenue Service is consistent with—

(i) the goals and requirements specified in subparagraphs (A) through (D), and

(ii) the strategic plan developed under paragraph (4).

(4) STRATEGIC PLAN.—

(A) IN GENERAL.—The IRS CIO shall develop and implement a multiyear strategic plan for the information technology needs of the Internal Revenue Service. Such plan shall—

(i) include performance measurements of such technology and of the implementation of such plan,

(ii) include a plan for an integrated enterprise architecture of the information technology of the Internal Revenue Service,

(iii) include and take into account the resources needed to accomplish such plan,

(iv) take into account planned major acquisitions of information technology by the Internal Revenue Service, and

(v) align with the needs and strategic plan of the Internal Revenue Service.

(B) PLAN UPDATES.—The IRS CIO shall, not less frequently than annually, review and update the strategic plan under subparagraph (A) (including the plan for an integrated enterprise architecture described in subparagraph (A)(ii)) to take into account the development of new information technology and the needs of the Internal Revenue Service.

(5) SCOPE OF AUTHORITY.—

(A) INFORMATION TECHNOLOGY.—For purposes of this subsection, the term "information technology" has the meaning given such term by section 11101 of title 40, United States Code.

(B) INTERNAL REVENUE SERVICE.—Any reference in this subsection to the Internal Revenue Service includes a reference to all components of the Internal Revenue Service, including—

(i) the Office of the Taxpayer Advocate,

(ii) the Criminal Investigation Division of the Internal Revenue Service, and

(iii) except as otherwise provided by the Secretary with respect to information technology related to matters described in subsection (b)(3)(B), the Office of the Chief Counsel.

SEC. 7804. OTHER PERSONNEL.

(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.

(d) PROHIBITION ON REHIRING EMPLOYEES INVOLUNTARILY SEPARATED.—The Commissioner may not hire any individual previously employed by the Commissioner who was removed for misconduct under this subchapter or chapter 43 or chapter 75 of title 5, United States Code, or whose employment was terminated under section

1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note).

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SEC. 7812. STREAMLINED CRITICAL PAY AUTHORITY FOR INFORMATION TECHNOLOGY POSITIONS.

In the case of any position which is critical to the functionality of the information technology operations of the Internal Revenue Service—

(1) section 9503 of title 5, United States Code, shall be applied—

(A) by substituting "during the period beginning on the date of the enactment of section 7812 of the Internal Revenue Code of 1986, and ending on September 30, 2025" for "Before September 30, 2013 in subsection (a)",

(B) without regard to subparagraph (B) of subsection (a)(1), and

(C) by substituting "the date of the enactment of the Taxpayer First Act of 2019" for "June 1, 1998" in subsection (a)(6),

(2) section 9504 of such title 5 shall be applied by substituting "During the period beginning on the date of the enactment of section 7812 of the Internal Revenue Code of 1986, and ending on September 30, 2025" for "Before September 30, 2013" each place it appears in subsections (a) and (b), and

(3) section 9505 of such title shall be applied—

(A) by substituting "During the period beginning on the date of the enactment of section 7812 of the Internal Revenue Code of 1986, and ending on September 30, 2025" for "Before September 30, 2013" in subsection (a), and

(B) by substituting "the information technology operations" for "significant functions" in subsection (a).

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TITLE 31, UNITED STATES CODE

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SUBTITLE IV—MONEY

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CHAPTER 53—MONETARY TRANSACTIONS

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SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

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§ 5317. Search and forfeiture of monetary instruments

(a) The Secretary of the Treasury may apply to a court of competent jurisdiction for a search warrant when the Secretary reasonably believes a monetary instrument is being transported and a re-

port on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. The Secretary shall include a statement of information in support of the warrant. On a showing of probable cause, the court may issue a search warrant for a designated person or a designated or described place or physical object. This subsection does not affect the authority of the Secretary under another law.

(b) SEARCHES AT BORDER.—For purposes of ensuring compliance with the requirements of section 5316, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, and any person entering or departing from the United States.

(c) FORFEITURE.—

(1) CRIMINAL FORFEITURE.—

(A) IN GENERAL.—The court in imposing sentence for any violation of section 5313, 5316, or 5324 of this title, or any conspiracy to commit such violation, shall order the defendant to forfeit all property, real or personal, involved in the offense and any property traceable thereto.

(B) PROCEDURE.—Forfeitures under this paragraph shall be governed by the procedures established in section 413 of the Controlled Substances Act.

(2) CIVIL FORFEITURE.—[Any property]

(A) IN GENERAL.—Any property involved in a violation of section 5313, 5316, or 5324 of this title, or any conspiracy to commit any such violation, and any property traceable to any such violation or conspiracy, may be seized and forfeited to the United States in accordance with the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

(B) INTERNAL REVENUE SERVICE SEIZURE REQUIREMENTS WITH RESPECT TO STRUCTURING TRANSACTIONS.—

(i) PROPERTY DERIVED FROM AN ILLEGAL SOURCE.—Property may only be seized by the Internal Revenue Service pursuant to subparagraph (A) by reason of a claimed violation of section 5324 if the property to be seized was derived from an illegal source or the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than section 5324.

(ii) NOTICE.—Not later than 30 days after property is seized by the Internal Revenue Service pursuant to subparagraph (A), the Internal Revenue Service shall—

(I) make a good faith effort to find all persons with an ownership interest in such property; and

(II) provide each such person so found with a notice of the seizure and of the person's rights under clause (iv).

(iii) EXTENSION OF NOTICE UNDER CERTAIN CIRCUMSTANCES.—The Internal Revenue Service may apply to a court of competent jurisdiction for one 30-day extension of the notice requirement under clause (ii) if the Internal Revenue Service can establish prob-

able cause of an imminent threat to national security or personal safety necessitating such extension.

(iv) POST-SEIZURE HEARING.—If a person with an ownership interest in property seized pursuant to subparagraph (A) by the Internal Revenue Service requests a hearing by a court of competent jurisdiction within 30 days after the date on which notice is provided under subclause (ii), such property shall be returned unless the court holds an adversarial hearing and finds within 30 days of such request (or such longer period as the court may provide, but only on request of an interested party) that there is probable cause to believe that there is a violation of section 5324 involving such property and probable cause to believe that the property to be seized was derived from an illegal source or the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than section 5324.

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SECTION 232 OF THE SOCIAL SECURITY ACT

PROCESSING OF TAX DATA

SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Commissioner of Social Security for the purposes of this title and title XI. The Commissioner of Social Security and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Commissioner of Social Security of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1986. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1986, the Secretary of the Treasury shall make available to the Commissioner of Social Security such documents as may be agreed upon as being necessary for purposes of such processing. *For purposes of carrying out the return processing program described in the preceding sentence, the Commissioner of Social Security shall request, not less than annually, such information described in section 7529(b)(2) of the Internal Revenue Code of 1986 as may be necessary to ensure the accuracy of the records maintained by the Commissioner of Social Security related to the amounts of wages paid to, and the amounts of self-employment income derived by, individuals.* The Commissioner of Social Security shall process any withholding tax statements or other documents made available to the Commissioner by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Commissioner of Social Security and the Secretary of the Treasury.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

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TITLE II—ELECTRONIC FILING

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[SEC. 2004. RETURN-FREE TAX SYSTEM.

[(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

[(b) REPORT.—Not later than June 30 of each calendar year after 1999, the Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

[(1) what additional resources the Internal Revenue Service would need to implement such a system;

[(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system;

[(3) the procedures developed pursuant to subsection (a); and

[(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).]

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