

104TH CONGRESS
1ST SESSION

H. R. 2450

To amend the Internal Revenue Code of 1986 to place the burden of proof on the Secretary of the Treasury in civil cases and on the taxpayer in administrative proceedings, to require 30 days notice and judicial consent before lien or seizure, to increase the limit on recovery of civil damages for unauthorized collection actions and exclude such damages from income, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 1995

Mr. TRAFICANT introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to place the burden of proof on the Secretary of the Treasury in civil cases and on the taxpayer in administrative proceedings, to require 30 days notice and judicial consent before lien or seizure, to increase the limit on recovery of civil damages for unauthorized collection actions and exclude such damages from income, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. BURDEN OF PROOF.**

2 (a) GENERAL RULE.—Chapter 77 of the Internal
3 Revenue Code of 1986 (relating to miscellaneous provi-
4 sions) is amended by adding at the end the following new
5 section:

6 **“SEC. 7524. BURDEN OF PROOF.**

7 “(a) ADMINISTRATIVE PROCEEDINGS.—Notwith-
8 standing any other provision of this title, in the case of
9 any administrative proceeding under this title, the burden
10 of proof with respect to all issues shall be upon the
11 taxpayer.

12 “(b) COURT PROCEEDINGS.—Notwithstanding any
13 other provision of this title, in the case of any court pro-
14 ceeding under this title, the burden of proof with respect
15 to all issues shall be upon the Secretary.”

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 77 of such Code is amended by adding at the
18 end the following new item:

“Sec. 7524. Burden of proof.”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to administrative and court pro-
21 ceedings filed on or after the date of the enactment of
22 this Act.

23 **SEC. 2. REQUIREMENT OF 30 DAYS NOTICE AND JUDICIAL**
24 **CONSENT BEFORE LIEN OR SEIZURE.**

25 (a) LIEN.—

1 (1) 30-DAY NOTICE REQUIREMENT.—Section
2 6322 of such Code is amended by striking “at the
3 time the assessment is made” and inserting “on the
4 date occurring 30 days after notice of the assess-
5 ment is provided to the taxpayer”.

6 (2) JUDICIAL CONSENT.—

7 (A) IN GENERAL.—Subchapter C of chap-
8 ter 64 of such Code is amended by redesignat-
9 ing section 6327 as section 6328 and by insert-
10 ing after section 6326 the following new sec-
11 tion:

12 **“SEC. 6327. JUDICIAL CONSENT REQUIRED.**

13 “Notwithstanding any other provision of law, no lien
14 may arise under this subchapter without judicial consent.”

15 (B) CLERICAL AMENDMENT.—The table of
16 sections for subchapter C of chapter 64 of such
17 Code is amended by striking the item relating
18 to section 6327 and inserting the following new
19 items:

“Sec. 6327. Judicial consent required.
“Sec. 6328. Cross references.”

20 (b) SEIZURE.—

21 (1) 30-DAY NOTICE REQUIREMENT.—Subsection
22 (a) of section 6331 of such Code is amended—

23 (A) in the first sentence, by striking “10
24 days” and inserting “30 days”, and

1 (B) in the last sentence, by striking “10-
2 day period” and inserting “30-day period”.

3 (2) JUDICIAL CONSENT.—Subchapter D of
4 chapter 64 of such Code is amended by redesignat-
5 ing section 6344 as section 6345 and by inserting
6 after section 6343 the following new section:

7 **“SEC. 6344. JUDICIAL CONSENT REQUIRED.**

8 “Notwithstanding any other provision of law, the Sec-
9 retary may not collect any tax (or other sum) under this
10 subchapter by levy without judicial consent.”

11 (B) CLERICAL AMENDMENT.—The table of
12 sections for subchapter C of chapter 64 of such
13 Code is amended by striking the item relating
14 to section 6327 and inserting the following new
15 items:

“Sec. 6344. Judicial consent required.
“Sec. 6345. Cross references.”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxes due for taxable years be-
18 ginning after the date of the enactment of this Act.

19 **SEC. 3. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAM-**
20 **AGES FOR UNAUTHORIZED COLLECTION AC-**
21 **TIONS; EXCLUSION OF SUCH DAMAGES FROM**
22 **INCOME.**

23 (a) INCREASE IN LIMIT.—Subsection (b) of section
24 7433 of the Internal Revenue Code of 1986 (relating to

1 damages) is amended by striking “\$100,000” and insert-
2 ing “\$1,000,000”.

3 (b) EXCLUSION FROM INCOME.—Section 7433 of
4 such Code is amended by adding at the end the following
5 new subsection:

6 “(e) EXCLUSION OF DAMAGES FROM INCOME.—
7 Damages awarded under this section shall be excluded
8 from gross income under this title.”

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to actions by officers or employees
11 of the Internal Revenue Service after the date of the en-
12 actment of this Act.

13 **SEC. 4. REPORT ON MEANS TO OFFSET REVENUE CON-**
14 **SEQUENCES REGARDING BURDEN OF PROOF.**

15 The Comptroller General of the United States shall
16 conduct a study of possible means to offset any revenue
17 losses resulting from section 7524(b) of the Internal Reve-
18 nue Code of 1986 (as added by section 1). The Comptrol-
19 ler General shall submit to the Congress, not later than
20 1 year after the date of the enactment of this Act, a report
21 detailing the results of such study.

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