

105TH CONGRESS
2D SESSION

H. R. 3493

To amend the Internal Revenue Code of 1986 to provide additional taxpayer rights.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1998

Mr. COYNE (for himself, Mrs. JOHNSON of Connecticut, Mr. RANGEL, Mr. HERGER, Mr. STARK, Mr. CAMP, Mr. MATSUI, Mr. RAMSTAD, Mrs. KENNELLY of Connecticut, Ms. DUNN, Mr. LEVIN, Mr. PORTMAN, Mr. CARDIN, Mr. ENGLISH of Pennsylvania, Mr. MCDERMOTT, Mr. CHRISTENSEN, Mr. KLECZKA, Mr. WATKINS, Mr. LEWIS of Georgia, Mr. HAYWORTH, Mr. NEAL of Massachusetts, Mr. WELLER, Mr. McNULTY, Mr. JEFFERSON, Mr. TANNER, Mr. BECERRA, and Mrs. THURMAN) 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 provide additional taxpayer rights.

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

3 **SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CON-**
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Taxpayer Protection Act of 1998”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; reference; table of contents.

TITLE I—RESTRICTIONS ON LEVY AND OTHER COLLECTION ACTIVITIES

- Sec. 101. Levy prohibited during pendency of certain proceedings.
 Sec. 102. Levy prohibited while offer in compromise pending, while offer for installment agreement pending, and during period installment agreement in effect.
 Sec. 103. Levy prohibited while determining validity of assessment.
 Sec. 104. IRS counsel approval required for certain third-party collection activities.
 Sec. 105. Approval required for levy on certain assets.
 Sec. 106. Approval required for jeopardy and termination assessments and jeopardy levies.
 Sec. 107. Approval required before sale of perishable goods.
 Sec. 108. Increase in amount of certain property on which lien not valid.

TITLE II—APPLICATION OF CERTAIN FAIR DEBT COLLECTION PROCEDURES

- Sec. 201. Application of certain fair debt collection procedures.

TITLE III—PROVISIONS RELATING TO INSTALLMENT AGREEMENTS

- Sec. 301. Guaranteed availability of installment agreements.

TITLE IV—EXPANSION OF JUDICIAL REMEDIES

- Sec. 401. Taxpayers allowed motion to quash all third-party summonses.
 Sec. 402. Civil action for release of erroneous lien.
 Sec. 403. Civil damages for IRS violations of bankruptcy procedures.

TITLE V—MISCELLANEOUS CHANGES

- Sec. 501. Personal delivery of notice of penalty under section 6672.
 Sec. 502. Service of summonses to third-party recordkeepers permitted by mail.
 Sec. 503. Increase of size of cases permitted to use Tax Court small case procedures.

1 **TITLE I—RESTRICTIONS ON**
2 **LEVY AND OTHER COLLEC-**
3 **TION ACTIVITIES**

4 **SEC. 101. LEVY PROHIBITED DURING PENDENCY OF CER-**
5 **TAIN PROCEEDINGS.**

6 (a) IN GENERAL.—Section 6331 (relating to levy and
7 distraint) is amended by redesignating subsection (i) as
8 subsection (j) and by inserting after subsection (h) the fol-
9 lowing new subsection:

10 “(i) NO LEVY DURING PENDENCY OF CERTAIN PRO-
11 CEEDINGS.—

12 “(1) PROCEEDINGS IN TAX COURT BY ONE
13 SPOUSE INVOLVING LIABILITY ON JOINT RETURN.—

14 No levy may be made under subsection (a) on the
15 property or rights to property of any individual with
16 respect to any unpaid tax relating to a joint return
17 filed by such individual and any other individual
18 during the pendency of a proceeding brought in the
19 Tax Court by such other individual with respect to
20 such unpaid tax.

21 “(2) PROCEEDINGS FOR REFUND OF DIVISIBLE
22 TAX.—

23 “(A) IN GENERAL.—No levy may be made
24 under subsection (a) on the property or rights
25 to property of any person with respect to any

1 unpaid divisible tax during the pendency of any
2 proceeding brought by such person in a proper
3 court for the recovery of any portion of such di-
4 visible tax which was paid by such person if—

5 “(i) the decision in such proceeding
6 would be res judicata with respect to such
7 unpaid tax, or

8 “(ii) such person would be collaterally
9 estopped from contesting such unpaid tax
10 by reason of such proceeding.

11 “(B) DIVISIBLE TAX.—For purposes of
12 subparagraph (A), the term ‘divisible tax’
13 means—

14 “(i) any tax imposed by subtitle C,
15 and

16 “(ii) the penalty imposed by section
17 6672 with respect to any such tax.

18 “(3) EXCEPTIONS.—

19 “(A) CERTAIN UNPAID TAXES.—This sub-
20 section shall not apply with respect to any un-
21 paid tax if—

22 “(i) the taxpayer files a written notice
23 with the Secretary which waives the re-
24 striction imposed by this subsection on levy
25 with respect to such tax, or

1 “(ii) the Secretary finds that the col-
2 lection of such tax is in jeopardy.

3 “(B) CERTAIN LEVIES.—This subsection
4 shall not apply to—

5 “(i) any levy to carry out an offset
6 under section 6402, and

7 “(ii) any levy which was first made
8 before the date that the applicable proceed-
9 ing under this subsection commenced.

10 “(4) AUTHORITY TO ENJOIN LEVY.—No pro-
11 ceeding in court for the collection of any unpaid tax
12 to which paragraph (1) or (2) applies shall be begun
13 by the Secretary during the pendency of a proceed-
14 ing under such paragraph. Notwithstanding section
15 7421(a), such a levy or collection proceeding may be
16 enjoined (during the period such prohibition is in
17 force) by the court in which the proceeding under
18 paragraph (1) or (2) is brought.

19 “(5) SUSPENSION OF STATUTE OF LIMITATIONS
20 ON COLLECTION.—The period of limitations under
21 section 6502 shall be suspended for the period dur-
22 ing which the Secretary is prohibited under this sub-
23 section from making a levy.

24 “(6) PENDENCY OF PROCEEDING.—For pur-
25 poses of this subsection, a proceeding is pending be-

1 ginning on the date such proceeding commences and
 2 ending on the date the decision in such proceeding
 3 becomes final.”.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 this section shall apply to unpaid tax attributable to tax-
 6 able periods beginning after December 31, 1998.

7 **SEC. 102. LEVY PROHIBITED WHILE OFFER IN COM-**
 8 **PROMISE PENDING, WHILE OFFER FOR IN-**
 9 **STALLMENT AGREEMENT PENDING, AND**
 10 **DURING PERIOD INSTALLMENT AGREEMENT**
 11 **IN EFFECT.**

12 (a) IN GENERAL.—Section 6331 (relating to levy and
 13 distraint) is amended by redesignating subsection (j) as
 14 subsection (k) and by inserting after subsection (i) the fol-
 15 lowing new subsection:

16 “(j) NO LEVY WHILE CERTAIN OFFERS PENDING
 17 AND WHILE INSTALLMENT AGREEMENT IN EFFECT.—

18 “(1) OFFER IN COMPROMISE PENDING.—No
 19 levy may be made under subsection (a) on the prop-
 20 erty or rights to property of any person with respect
 21 to any unpaid tax—

22 “(A) during the period that an offer by
 23 such person in compromise under section 7122
 24 of such unpaid tax is pending with the Sec-
 25 retary, and

1 “(B) if such offer is rejected by the Sec-
2 retary, during the 30 days thereafter (and, if
3 an appeal of such rejection is filed within such
4 30 days, during the period that such appeal is
5 pending).

6 For purposes of subparagraph (A), an offer is pend-
7 ing beginning on the date the Secretary accepts the
8 waiver in such offer of the period of limitations for
9 collecting such tax.

10 “(2) **INSTALLMENT AGREEMENTS.**—No levy
11 may be made under subsection (a) on the property
12 or rights to property of any person with respect to
13 any unpaid tax—

14 “(A) during the period that an offer by
15 such person for an installment agreement under
16 section 6159 for payment of such unpaid tax is
17 pending with the Secretary,

18 “(B) if such offer is rejected by the Sec-
19 retary, during the 30 days thereafter (and, if
20 an appeal of such rejection is filed within such
21 30 days, during the period that such appeal is
22 pending),

23 “(C) during the period that such an in-
24 stallment agreement for payment of such un-
25 paid tax is in effect, and

1 “(D) if such agreement is terminated by
2 the Secretary, during the 30 days thereafter
3 (and, if an appeal of such termination is filed
4 within such 30 days, during the period that
5 such appeal is pending).

6 “(3) CERTAIN RULES TO APPLY.—Rules similar
7 to the rules of paragraphs (3), (4), and (5) of sub-
8 section (i) shall apply for purposes of this sub-
9 section.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to—

12 (1) offers in compromise or for installment
13 agreements pending on or made after the 60th day
14 after the date of the enactment of this Act, and

15 (2) installment agreements entered into on or
16 after such 60th day.

17 **SEC. 103. LEVY PROHIBITED WHILE DETERMINING VALID-**
18 **ITY OF ASSESSMENT.**

19 (a) IN GENERAL.—Section 6331 (relating to levy and
20 distraint) is amended by redesignating subsection (k) as
21 subsection (l) and by inserting after subsection (j) the fol-
22 lowing new subsection:

23 “(k) NO LEVY WHILE SECRETARY DETERMINES VA-
24 LIDITY OF ASSESSMENT.—

1 “(1) IN GENERAL.—In the case of any unpaid
2 tax under subtitle A—

3 “(A) which has been assessed against an
4 individual, and

5 “(B) which was included in a notice of de-
6 ficiency under section 6212 mailed to the last
7 known address of such individual,

8 no levy may be made under subsection (a) on the
9 property or rights to property of any person with re-
10 spect to such tax during the 60-day period (or such
11 longer period as the Secretary may specify) begin-
12 ning on the date such individual requests that this
13 paragraph apply.

14 “(2) EXCEPTION.—Paragraph (1) shall not
15 apply to any unpaid tax if the assessment of such
16 tax was previously prevented under section 6213 by
17 such individual.

18 “(3) CERTAIN RULES TO APPLY.—Rules similar
19 to the rules of paragraphs (3), (4), and (5) of sub-
20 section (i) shall apply for purposes of this sub-
21 section.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxes assessed on or after the
24 60th day after the date of the enactment of this Act.

1 **SEC. 104. IRS COUNSEL APPROVAL REQUIRED FOR CER-**
2 **TAIN THIRD-PARTY COLLECTION ACTIVITIES.**

3 (a) RESTRICTION ON FILING NOTICE OF LIEN.—Sec-
4 tion 6323 is amended by adding at the end the following
5 new subsection:

6 “(k) IRS COUNSEL APPROVAL REQUIRED FOR FIL-
7 ING NOTICE ON PROPERTY HELD BY CERTAIN THIRD
8 PARTIES.—

9 “(1) IN GENERAL.—The Secretary may file a
10 notice of a lien imposed by section 6321 against the
11 property or rights to property of any person who the
12 Secretary believes is holding such property or rights
13 as a nominee, transferee, or alter ego of the person
14 with respect to whose liability the lien arose only if
15 the filing of such notice is approved by the Chief
16 Counsel for the Internal Revenue Service (or such
17 Counsel’s delegate).

18 “(2) EXCEPTION.—Paragraph (1) shall not
19 apply to any lien if the Secretary finds that the col-
20 lection of the tax is in jeopardy.”.

21 (b) RESTRICTION ON LEVY.—Section 6331 (relating
22 to levy and distraint) is amended by redesignating sub-
23 section (l) as subsection (m) and by inserting after sub-
24 section (k) the following new subsection:

25 “(l) IRS COUNSEL APPROVAL REQUIRED FOR LEVY
26 ON PROPERTY HELD BY CERTAIN THIRD PARTIES.—

1 “(2) OTHER PROPERTY.—Levy may be made on
2 the following property only if the requirements of
3 subparagraph (A) or (B) of paragraph (3) are met:

4 “(A) Any pension or annuity provided
5 under a qualified employer plan (as defined in
6 section 4972(d)(1), determined without regard
7 to subparagraph (B) thereof).

8 “(B) Any life insurance, endowment, or
9 annuity contract.

10 This paragraph shall not apply to a levy to which
11 section 6331(h) applies.

12 “(3) REQUIREMENTS.—

13 “(A) APPROVAL.—The requirement of this
14 subparagraph is met if a district director or as-
15 sistant district director of the Internal Revenue
16 Service personally approves (in writing) the
17 levy.

18 “(B) JEOPARDY.—The requirement of this
19 subparagraph is met if the Secretary finds that
20 the collection of tax is in jeopardy.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxes assessed after the date
23 of the enactment of this Act.

1 **SEC. 106. APPROVAL REQUIRED FOR JEOPARDY AND TER-**
2 **MINATION ASSESSMENTS AND JEOPARDY**
3 **LEVIES.**

4 (a) **IN GENERAL.**—Paragraph (1) of section 7429(a)
5 (relating to review of jeopardy levy or assessment proce-
6 dures) is amended to read as follows:

7 “(1) **ADMINISTRATIVE REVIEW.**—

8 “(A) **PRIOR APPROVAL REQUIRED.**—No as-
9 sessment may be made under section 6851(a),
10 6852(a), 6861(a), or 6862, and no levy may be
11 made under section 6331(a) less than 30 days
12 after notice and demand for payment is made
13 under section 6331(d), unless the Chief Counsel
14 for the Internal Revenue Service (or such Coun-
15 sel’s delegate) personally approves (in writing)
16 such assessment or levy.

17 “(B) **INFORMATION TO TAXPAYER.**—With-
18 in 5 days after the day on which such an as-
19 sessment or levy is made, the Secretary shall
20 provide the taxpayer with a written statement
21 of the information upon which the Secretary re-
22 lies in making such assessment or levy.”.

23 (b) **EFFECTIVE DATE.**—The amendment made by
24 this section shall apply to taxes assessed after the date
25 of the enactment of this Act.

1 **SEC. 107. APPROVAL REQUIRED BEFORE SALE OF PERISH-**
2 **ABLE GOODS.**

3 (a) IN GENERAL.—Paragraph (2) of section 6336
4 (relating to sale of perishable goods) is amended to read
5 as follows:

6 “(2) IMMEDIATE SALE.—If—

7 “(A) the owner does not pay such amount
8 or furnish such bond in accordance with this
9 section, and

10 “(B) a district director or assistant district
11 director of the Internal Revenue Service person-
12 ally approves (in writing) the sale of the prop-
13 erty (or the owner waives such approval in writ-
14 ing),

15 the Secretary shall as soon as practicable make pub-
16 lic sale of the property in accordance with such regu-
17 lations as may be prescribed by the Secretary.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxes assessed after the date
20 of the enactment of this Act.

21 **SEC. 108. INCREASE IN AMOUNT OF CERTAIN PROPERTY**
22 **ON WHICH LIEN NOT VALID.**

23 (a) CERTAIN PROPERTY.—

24 (1) IN GENERAL.—Subsection (b) of section
25 6323 (relating to validity and priority against cer-
26 tain persons) is amended—

1 (A) by striking “\$250” in paragraph (4)
2 (relating to personal property purchased in cas-
3 ual sale) and inserting “\$1,000”, and

4 (B) by striking “\$1,000” in paragraph (7)
5 (relating to residential property subject to a
6 mechanic’s lien for certain repairs and improve-
7 ments) and inserting “\$5,000”.

8 (2) INFLATION ADJUSTMENT.—Subsection (i)
9 of section 6323 (relating to special rules) is amended
10 by adding at the end the following new paragraph:

11 “(4) COST-OF-LIVING ADJUSTMENT.—In the
12 case of notices of liens imposed by section 6321
13 which are filed in any calendar year after 1998, each
14 of the dollar amounts under paragraph (4) or (7) of
15 subsection (b) shall be increased by an amount equal
16 to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for the calendar
20 year, determined by substituting ‘calendar year
21 1996’ for ‘calendar year 1992’ in subparagraph
22 (B) thereof.

23 If any amount as adjusted under the preceding sen-
24 tence is not a multiple of \$10, such amount shall be
25 rounded to the nearest multiple of \$10.”.

1 (b) EXPANSION OF TREATMENT OF PASSBOOK
2 LOANS.—Paragraph (10) of section 6323(b) is amend-
3 ed—

4 (1) by striking “PASSBOOK LOANS” in the
5 heading and inserting “DEPOSIT-SECURED LOANS”,

6 (2) by striking “, evidenced by a passbook,”,
7 and

8 (3) by striking all that follows “secured by such
9 account” and inserting a period.

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

13 **TITLE II—APPLICATION OF CER-**
14 **TAIN FAIR DEBT COLLECTION**
15 **PROCEDURES**

16 **SEC. 201. APPLICATION OF CERTAIN FAIR DEBT COLLEC-**
17 **TION PROCEDURES.**

18 (a) IN GENERAL.—Subchapter A of chapter 64 (re-
19 lating to collection) is amended by inserting after section
20 6303 the following new section:

21 **“SEC. 6304. FAIR TAX COLLECTION PRACTICES.**

22 “(a) COMMUNICATION WITH THE TAXPAYER.—With-
23 out the prior consent of the taxpayer given directly to the
24 Secretary or the express permission of a court of com-
25 petent jurisdiction, the Secretary may not communicate

1 with a taxpayer in connection with the collection of any
2 unpaid tax—

3 “(1) at any unusual time or place or a time or
4 place known or which should be known to be incon-
5 venient to the taxpayer;

6 “(2) if the Secretary knows the taxpayer is rep-
7 resented by any person authorized to practice before
8 the Internal Revenue Service with respect to such
9 unpaid tax and has knowledge of, or can readily as-
10 certain, such person’s name and address, unless
11 such person fails to respond within a reasonable pe-
12 riod of time to a communication from the Secretary
13 or unless such person consents to direct communica-
14 tion with the taxpayer; or

15 “(3) at the taxpayer’s place of employment if
16 the Secretary knows or has reason to know that the
17 taxpayer’s employer prohibits the taxpayer from re-
18 ceiving such communication.

19 In the absence of knowledge of circumstances to the con-
20 trary, the Secretary shall assume that the convenient time
21 for communicating with a taxpayer is after 8 a.m. and
22 before 9 p.m., local time at the taxpayer’s location.

23 “(b) PROHIBITION OF HARASSMENT AND ABUSE.—
24 The Secretary may not engage in any conduct the natural
25 consequence of which is to harass, oppress, or abuse any

1 person in connection with the collection of any unpaid tax.
2 Without limiting the general application of the foregoing,
3 the following conduct is a violation of this subsection:

4 “(1) The use or threat of use of violence or
5 other criminal means to harm the physical person,
6 reputation, or property of any person.

7 “(2) The use of obscene or profane language or
8 language the natural consequence of which is to
9 abuse the hearer or reader.

10 “(3) Causing a telephone to ring or engaging
11 any person in telephone conversation repeatedly or
12 continuously with intent to annoy, abuse, or harass
13 any person at the called number.

14 “(4) Except as provided under rules similar to
15 the rules in section 804 of the Fair Debt Collection
16 Practices Act (15 U.S.C. 1692b), the placement of
17 telephone calls without meaningful disclosure of the
18 caller’s identity.

19 “(c) CIVIL ACTION FOR VIOLATIONS OF SECTION.—

“**For civil action for violations of this section, see
section 7433.**”

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for subchapter A of chapter 64 is amended by inserting
22 after the item relating to section 6303 the following new
23 item:

“Sec. 6304. Fair tax collection practices.”.

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

4 **TITLE III—PROVISIONS RELAT-**
5 **ING TO INSTALLMENT AGREE-**
6 **MENTS**

7 **SEC. 301. GUARANTEED AVAILABILITY OF INSTALLMENT**
8 **AGREEMENTS.**

9 (a) IN GENERAL.—Section 6159 (relating to agree-
10 ments for payment of tax liability in installments) is
11 amended by redesignating subsection (c) as subsection (d)
12 and by inserting after subsection (b) the following new
13 subsection:

14 “(c) SECRETARY REQUIRED TO ENTER INTO IN-
15 STALLMENT AGREEMENTS IN CERTAIN CASES.—In the
16 case of a liability for tax under subtitle A of an individual,
17 the Secretary shall enter into an agreement to accept the
18 payment of such tax in installments if, as of the date the
19 individual offers to enter into the agreement—

20 “(1) the aggregate amount of such liability (de-
21 termined without regard to interest, penalties, addi-
22 tions to the tax, and additional amounts) does not
23 exceed \$10,000,

1 “(2) the taxpayer (and, if such liability relates
2 to a joint return, the taxpayer’s spouse) has not,
3 during any of the preceding 5 taxable years—

4 “(A) failed to file any return of tax im-
5 posed by subtitle A,

6 “(B) failed to pay any tax required to be
7 shown on any such return, or

8 “(C) entered into an installment agreement
9 under this section for payment of any tax im-
10 posed by subtitle A,

11 “(3) the Secretary determines that the taxpayer
12 is financially unable to pay such liability in full when
13 due (and the taxpayer submits such information as
14 the Secretary may require to make such determina-
15 tion),

16 “(4) the agreement requires full payment of
17 such liability within 3 years, and

18 “(5) the taxpayer agrees—

19 “(A) to extend the period under section
20 6502 for collecting such liability (including in-
21 terest, penalties, additions to the tax, and addi-
22 tional amounts) by the term of such agreement,
23 and

1 “(B) to comply with the provisions of this
2 title for the period such agreement is in ef-
3 fect.”.

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

7 **TITLE IV—EXPANSION OF** 8 **JUDICIAL REMEDIES**

9 **SEC. 401. TAXPAYERS ALLOWED MOTION TO QUASH ALL** 10 **THIRD-PARTY SUMMONSES.**

11 (a) IN GENERAL.—Paragraph (1) of section 7609(a)
12 (relating to summonses to which section applies) is amend-
13 ed by striking so much of such paragraph as precedes “no-
14 tice of the summons” and inserting the following:

15 “(1) IN GENERAL.—If any summons to which
16 this section applies requires the giving of testimony
17 on, or the production of any portion of records made
18 or kept of, the business transactions or affairs of
19 any person (other than the person summoned) who
20 is identified in the summons, then”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Subsection (a) of section 7609 is amended
23 by striking paragraphs (3) and (4), by redesignating
24 paragraph (5) as paragraph (3), and by striking in

1 paragraph (3) (as so redesignated) “subsection
2 (c)(2)(B)” and inserting “subsection (c)(2)(D)”.

3 (2) Subsection (c) of section 7609 is amended
4 to read as follows:

5 “(c) SUMMONS TO WHICH SECTION APPLIES.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), this section shall apply to any summons
8 issued under paragraph (2) of section 7602(a) or
9 under section 6420(e)(2), 6421(g)(2), or 6427(j)(2).

10 “(2) EXCEPTIONS.—This section shall not
11 apply to any summons—

12 “(A) served on the person with respect to
13 whose liability the summons is issued, or any
14 officer or employee of such person,

15 “(B) issued to determine whether or not
16 records of the business transactions or affairs
17 of an identified person have been made or kept,

18 “(C) issued solely to determine the identity
19 of any person having a numbered account (or
20 similar arrangement) with a bank or other in-
21 stitution described in section 7603(b)(2)(A),

22 “(D) issued in aid of the collection of—

23 “(i) an assessment made or judgment
24 rendered against the person with respect to
25 whose liability the summons is issued, or

1 “(ii) the liability at law or in equity of
2 any transferee or fiduciary of any person
3 referred to in clause (i),

4 “(E)(i) issued by a criminal investigator of
5 the Internal Revenue Service in connection with
6 the investigation of an offense connected with
7 the administration or enforcement of the inter-
8 nal revenue laws, and

9 “(ii) served on any person who is not a
10 third-party recordkeeper (as defined in section
11 7603(b)), or

12 “(F) described in subsection (f) or (g).

13 “(3) RECORDS.—For purposes of this section,
14 the term ‘records’ includes books, papers, and other
15 data.”

16 (3) Paragraph (2) of section 7609(e) is amend-
17 ed by striking “third-party recordkeeper’s” and all
18 that follows through “subsection (f)” and inserting
19 “summoned party’s response to the summons”.

20 (4) Subsection (f) of section 7609 is amended—

21 (A) by striking “described in subsection
22 (c)” and inserting “described in subsection
23 (c)(1)”, and

24 (B) by inserting “or testimony” after
25 “records” in paragraph (3).

1 (5) Subsection (g) of section 7609 is amended
2 by striking “In the case of any summons described
3 in subsection (c), the provisions of subsections (a)(1)
4 and (b) shall not apply if” and inserting “A sum-
5 mons is described in this subsection if”.

6 (6)(A) Subsection (i) of section 7609 is amend-
7 ed by striking “THIRD-PARTY RECORDKEEPER
8 AND” in the subsection heading.

9 (B) Paragraph (1) of section 7609(i) is amend-
10 ed by striking “described in subsection (c), the
11 third-party recordkeeper” and inserting “to which
12 this section applies for the production of records, the
13 summoned party”.

14 (C) Paragraph (2) of such section is amend-
15 ed—

16 (i) by striking “RECORDKEEPER” in the
17 heading and inserting “SUMMONED PARTY”,
18 and

19 (ii) by striking “the third-party record-
20 keeper” and inserting “the summoned party”.

21 (D) Paragraph (3) of such section is amended
22 to read as follows:

23 “(3) PROTECTION FOR SUMMONED PARTY WHO
24 DISCLOSES.—Any summoned party, or agent or em-
25 ployee thereof, making a disclosure of records or tes-

1 timony pursuant to this section in good faith reli-
2 ance on the certificate of the Secretary or an order
3 of a court requiring production of records or the giv-
4 ing of such testimony shall not be liable to any cus-
5 tomer or other person for such disclosure.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to summonses served after the date
8 of the enactment of this Act.

9 **SEC. 402. CIVIL ACTION FOR RELEASE OF ERRONEOUS**
10 **LIEN.**

11 (a) RIGHT OF SUBSTITUTION OF VALUE.—Sub-
12 section (b) of section 6325 (relating to release of lien or
13 discharge of property) is amended by adding at the end
14 the following new paragraph:

15 “(4) RIGHT OF SUBSTITUTION OF VALUE.—

16 “(A) IN GENERAL.—At the request of the
17 owner of any property subject to any lien im-
18 posed by this chapter, the Secretary shall issue
19 a certificate of discharge of such property if
20 such owner—

21 “(i) deposits with the Secretary an
22 amount of money equal to the value of the
23 interest of the United States (as deter-
24 mined by the Secretary) in the property, or

1 “(ii) furnishes a bond acceptable to
2 the Secretary in a like amount.

3 “(B) REFUND OF DEPOSIT WITH INTER-
4 EST AND RELEASE OF BOND.—The Secretary
5 shall refund the amount so deposited (and shall
6 pay interest at the overpayment rate under sec-
7 tion 6621), and shall release such bond, to the
8 extent that the Secretary determines that—

9 “(i) the unsatisfied liability giving rise
10 to the lien can be satisfied from a source
11 other than such property, or

12 “(ii) the value of the interest of the
13 United States in the property is less than
14 the Secretary’s prior determination of such
15 value.

16 “(C) USE OF DEPOSIT, ETC., IF ACTION TO
17 CONTEST LIEN NOT FILED.—If no action is
18 filed under section 7426(a)(4) within the period
19 prescribed therefor, the Secretary shall, within
20 60 days after the expiration of such period—

21 “(i) apply the amount deposited, or
22 collect on such bond, to the extent nec-
23 essary to satisfy the unsatisfied liability se-
24 cured by the lien, and

1 “(ii) refund (with interest as de-
2 scribed in subparagraph (B)) any portion
3 of the amount deposited which is not used
4 to satisfy such liability.

5 “(D) EXCEPTION.—Subparagraph (A)
6 shall not apply if the owner of the property is
7 the person whose unsatisfied liability gave rise
8 to the lien.”.

9 (b) CIVIL ACTION TO RELEASE ERRONEOUS LIEN.—

10 (1) IN GENERAL.—Subsection (a) of section
11 7426 (relating to civil actions by persons other than
12 taxpayers) is amended by adding at the end the fol-
13 lowing new paragraph:

14 “(4) SUBSTITUTION OF VALUE.—If a certificate
15 of discharge is issued to any person under section
16 6325(b)(4) with respect to any property, such per-
17 son may, within 120 days after the day on which
18 such certificate is issued, bring a civil action against
19 the United States in a district court of the United
20 States for a determination of whether the value of
21 the interest of the United States (if any) in such
22 property is less than the value determined by the
23 Secretary. No other action may be brought by such
24 person for such a determination.”.

25 (2) FORM OF RELIEF.—

1 (A) IN GENERAL.—Subsection (b) of sec-
2 tion 7426 is amended by adding at the end the
3 following new paragraph:

4 “(5) SUBSTITUTION OF VALUE.—If the court
5 determines that the Secretary’s determination of the
6 value of the interest of the United States in the
7 property for purposes of section 6325(b)(4) exceeds
8 the actual value of such interest, the court shall
9 grant a judgment ordering a refund of the amount
10 deposited, and a release of the bond, to the extent
11 that the aggregate of the amounts thereof exceeds
12 such value determined by the court.”.

13 (B) INTEREST ALLOWED ON REFUND OF
14 DEPOSIT.—Subsection (g) of section 7426 is
15 amended by striking “and” at the end of para-
16 graph (1), by striking the period at the end of
17 paragraph (2) and inserting “; and”, and by
18 adding at the end the following new paragraph:

19 “(3) in the case of a judgment pursuant to sub-
20 section (b)(5) which orders a refund of any amount,
21 from the date the Secretary received such amount to
22 the date of payment of such judgment.”.

23 (3) SUSPENSION OF RUNNING OF STATUTE OF
24 LIMITATION.—Subsection (f) of section 6503 is
25 amended to read as follows:

1 “(f) WRONGFUL SEIZURE OF OR LEVY ON PROPERTY
2 OF THIRD PARTY.—

3 “(1) WRONGFUL SEIZURE.—The running of the
4 period under section 6502 shall be suspended for a
5 period equal to the period from the date property
6 (including money) of a third party is wrongfully
7 seized or received by the Secretary to the date the
8 Secretary returns property pursuant to section
9 6343(b) or the date on which a judgment secured
10 pursuant to section 7426 with respect to such prop-
11 erty becomes final, and for 30 days thereafter. The
12 running of such period shall be suspended under this
13 paragraph only with respect to the amount of such
14 assessment equal to the amount of money or the
15 value of specific property returned.

16 “(2) WRONGFUL LEVY.—In the case of any as-
17 sessment for which a lien was made on any property,
18 the running of the period under section 6502 shall
19 be suspended for a period equal to the period begin-
20 ning on the date any person becomes entitled to a
21 certificate under section 6325(b)(4) with respect to
22 such property and ending on the date which is 30
23 days after the earlier of—

24 “(A) the earliest date on which the Sec-
25 retary no longer holds any amount as a deposit

1 or bond provided under section 6325(b)(4) by
2 reason of such deposit or bond being used to
3 satisfy the unpaid tax or being refunded or re-
4 leased, or

5 “(B) the date that the judgment secured
6 under section 7426(a)(4) becomes final.

7 The running of such period shall be suspended
8 under this paragraph only with respect to the
9 amount of such assessment equal to the value of the
10 interest of the United States in the property plus in-
11 terest, penalties, additions to the tax, and additional
12 amounts attributable thereto.”.

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

16 **SEC. 403. CIVIL DAMAGES FOR IRS VIOLATIONS OF BANK-**
17 **RUPTCY PROCEDURES.**

18 (a) IN GENERAL.—Section 7433 (relating to civil
19 damages for certain unauthorized collection actions) is
20 amended by adding at the end the following new sub-
21 section:

22 “(e) ACTIONS FOR VIOLATIONS OF CERTAIN BANK-
23 RUPTCY PROCEDURES.—

24 “(1) IN GENERAL.—If, in connection with any
25 collection of Federal tax with respect to a taxpayer,

1 any officer or employee of the Internal Revenue
2 Service willfully disregards any provision of section
3 362 (relating to automatic stay) or 524 (relating to
4 effect of discharge) of title 11, United States Code,
5 or any regulation promulgated under such section,
6 such taxpayer may petition the bankruptcy court to
7 recover damages against the United States.

8 “(2) REMEDY TO BE EXCLUSIVE.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), notwithstanding section 105
11 of such title 11, such petition shall be the exclu-
12 sive remedy for recovering damages resulting
13 from such actions.

14 “(B) CERTAIN OTHER ACTIONS PER-
15 MITTED.—Subparagraph (A) shall not apply to
16 an action under section 362(h) of such title 11
17 for a violation of a stay provided by section 362
18 of such title; except that—

19 “(i) administrative and litigation costs
20 in connection with such an action may only
21 be awarded only under section 7430, and

22 “(ii) administrative costs may be
23 awarded only if incurred on or after the
24 date that the bankruptcy petition is filed.”

1 (b) CONFORMING AMENDMENT.—Subsection (b) of
2 section 7433 is amended by inserting “or petition filed
3 under subsection (e)” after “subsection (a)”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to actions by officers or employees
6 of the Internal Revenue Service after the date of the en-
7 actment of this Act.

8 **TITLE V—MISCELLANEOUS**
9 **CHANGES**

10 **SEC. 501. PERSONAL DELIVERY OF NOTICE OF PENALTY**
11 **UNDER SECTION 6672.**

12 (a) IN GENERAL.—Paragraph (1) of section 6672(b)
13 (relating to failure to collect and pay over tax, or attempt
14 to evade or defeat tax) is amended by inserting “or in per-
15 son” after “section 6212(b)”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Paragraph (2) of section 6672(b) is amend-
18 ed by inserting “(or, in the case of such a notice de-
19 livered in person, such delivery)” after “paragraph
20 (1)”.

21 (2) Paragraph (3) of section 6672(b) is amend-
22 ed by inserting “or delivered in person” after
23 “mailed” each place it appears.

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

4 **SEC. 502. SERVICE OF SUMMONSES TO THIRD-PARTY REC-**
 5 **ORDKEEPERS PERMITTED BY MAIL.**

6 (a) IN GENERAL.—Section 7603 (relating to service
 7 of summons) is amended by striking “A summons issued”
 8 and inserting “(a) IN GENERAL.—A summons issued”
 9 and by adding at the end the following new subsection:
 10 “(b) SERVICE BY MAIL TO THIRD-PARTY RECORD-
 11 KEEPERS.—

12 “(1) IN GENERAL.—A summons referred to in
 13 subsection (a) for the production of books, papers,
 14 records, or other data by a third-party recordkeeper
 15 may also be served by certified or registered mail to
 16 the last known address of such recordkeeper.

17 “(2) THIRD-PARTY RECORDKEEPER.—For pur-
 18 poses of paragraph (1), the term ‘third-party record-
 19 keeper’ means—

20 “(A) any mutual savings bank, cooperative
 21 bank, domestic building and loan association, or
 22 other savings institution chartered and super-
 23 vised as a savings and loan or similar associa-
 24 tion under Federal or State law, any bank (as

1 defined in section 581), or any credit union
2 (within the meaning of section 501(c)(14)(A));

3 “(B) any consumer reporting agency (as
4 defined under section 603(f) of the Fair Credit
5 Reporting Act (15 U.S.C. 1681a(f)));

6 “(C) any person extending credit through
7 the use of credit cards or similar devices;

8 “(D) any broker (as defined in section
9 3(a)(4) of the Securities Exchange Act of 1934
10 (15 U.S.C. 78c(a)(4)));

11 “(E) any attorney;

12 “(F) any accountant;

13 “(G) any barter exchange (as defined in
14 section 6045(e)(3));

15 “(H) any regulated investment company
16 (as defined in section 851) and any agent of
17 such regulated investment company when acting
18 as an agent thereof, and

19 “(I) any enrolled agent.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to summonses served after the date
22 of the enactment of this Act.

1 **SEC. 503. INCREASE OF SIZE OF CASES PERMITTED TO USE**
2 **TAX COURT SMALL CASE PROCEDURES.**

3 (a) IN GENERAL.—Section 7463 (relating to disputes
4 involving \$10,000 or less) is amended by striking
5 “\$10,000” each place it appears (including the section
6 heading) and inserting “\$25,000”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Sections 7436(c)(1) and 7443A(b)(3) are
9 each amended by striking “\$10,000” and inserting
10 “\$25,000”.

11 (2) The table of sections for part II of sub-
12 chapter C of chapter 76 is amended by striking
13 “\$10,000” in the item relating to section 7463 and
14 inserting “\$25,000”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to proceedings commenced after
17 the date of the enactment of this Act.

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