

105TH CONGRESS  
2D SESSION

# S. 2008

To amend the Internal Revenue Code of 1986 to prohibit the use of random audits, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 29, 1998

Mr. COVERDELL (for himself, Mr. ASHCROFT, Mr. SHELBY, Mr. FRIST, Mr. COCHRAN, Mr. HAGEL, Mr. INHOFE, and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to prohibit the use of random audits, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internal Revenue Serv-  
5 ice Random Audit Prohibition Act”.

6 **SEC. 2. FINDINGS.**

7 The Senate finds the following:

8 (1) The Internal Revenue Service has at its dis-  
9 posal approximately 40 audit sources, which are pro-

1       grams and techniques used to select potentially non-  
2       compliant returns for audit. Such audit sources do  
3       not rely on random selection from the population of  
4       all returns but rather the Internal Revenue Service  
5       selects returns having the characteristics indicative  
6       of potential noncompliance.

7           (2) The Internal Revenue Service initiated at  
8       least 6 projects, covering taxable years 1994 through  
9       1996, that involved the performance of random au-  
10      dits on taxpayers.

11          (3) The Internal Revenue Service has selected  
12      at least 7,421 taxpayers nationwide at random for  
13      audits and completed no less than 2,961 random au-  
14      dits of returns for taxable years 1994 through 1996.

15          (4) More than 80 percent of all random audits  
16      completed covering taxable years 1994 through 1996  
17      were performed on low-income taxpayers earning  
18      \$25,000 or less.

19          (5) Nearly half of all random audits have oc-  
20      curred in 11 Southern States.

21          (6) Four of the 6 Internal Revenue Service  
22      projects involving random audits were focused on  
23      small businesses or the self employed.

1 **SEC. 3. PROHIBITION OF RANDOM AUDITS.**

2 (a) IN GENERAL.—Section 7602 of the Internal Rev-  
3 enue Code of 1986 (relating to examination of books and  
4 witnesses) is amended by adding at the end the following  
5 new subsection:

6 “(d) LIMITATIONS ON AUTHORITY TO EXAMINE.—

7 “(1) IDENTIFICATION OF PURPOSE AND BASIS  
8 FOR EXAMINATION REQUIRED.—In taking any ac-  
9 tion under subsection (a), the Secretary shall iden-  
10 tify in plain language the purpose and the basis for  
11 initiating an examination in any notice of such an  
12 examination to any person described in subsection  
13 (a).

14 “(2) RANDOM AUDITS PROHIBITED.—The Sec-  
15 retary shall not base, in whole or in part, the initi-  
16 ation of an examination of a return under subsection  
17 (a) on the use of a statistically random return selec-  
18 tion technique from a population or subpopulation.”

19 (b) CIVIL PENALTY FOR PERFORMING RANDOM AU-  
20 DITS.—Subchapter B of chapter 76 of the Internal Reve-  
21 nue Code of 1986 (relating to proceedings by taxpayers  
22 and third parties) is amended by redesignating section  
23 7437 as section 7438 and by inserting after section 7436  
24 the following new section:

1 **“SEC. 7437. CIVIL DAMAGES FOR PERFORMANCE OF RAN-**  
2 **DOM AUDITS.**

3 “(a) IN GENERAL.—If any officer or employee of the  
4 Internal Service in initiating an examination of a return  
5 of a taxpayer knowingly uses a statistically random return  
6 selection technique in violation of section 7602(d)(2), such  
7 taxpayer may bring a civil action for damages against the  
8 United States in a district court of the United States.

9 “(b) DAMAGES.—In any action brought under sub-  
10 section (a), upon a finding of liability on the part of the  
11 defendant, the defendant shall be liable to the plaintiff in  
12 an amount equal to the sum of \$5,000 plus the costs of  
13 the action.

14 “(c) PAYMENT AUTHORITY.—Claims pursuant to  
15 this section shall be payable out of funds appropriated  
16 under section 1304 of title 31, United States Code.

17 “(d) PERIOD FOR BRINGING ACTION.—Notwith-  
18 standing any other provision of law, an action to enforce  
19 the liability created under this section may be brought,  
20 without regard to the amount in controversy, at any time  
21 within 2 years after the date of the notice described in  
22 section 7602(d)(1).”

23 (c) CLERICAL AMENDMENT.—The table of sections  
24 for subchapter B of chapter 76 of the Internal Revenue  
25 Code of 1986 is amended by striking the item relating to  
26 section 7437 and inserting the following:

“Sec. 7437. Civil damages for performance of random audits.  
“Sec. 7438. Cross references.”

1       (d) **EFFECTIVE DATE.**—The amendments made by  
2 this section shall apply to examinations initiated after  
3 April 29, 1998.

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