

107TH CONGRESS
2^D SESSION

H. R. 5728

To amend the Internal Revenue Code of 1986 to provide fairness in tax collection procedures and improved administrative efficiency and confidentiality and to reform its penalty and interest provisions.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2002

Mr. THOMAS introduced the following bill; referred to the Committee on Ways and Means

NOVEMBER 14, 2002

Committee on Ways and Means discharged; considered and passed

A BILL

To amend the Internal Revenue Code of 1986 to provide fairness in tax collection procedures and improved administrative efficiency and confidentiality and to reform its penalty and interest provisions.

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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Administration Reform Act of 2002”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—FAIRNESS IN TAX COLLECTION PROCEDURES

Sec. 101. Partial payment of tax liability in installment agreements.

Sec. 102. Extension of time for return of property.

Sec. 103. Individuals held harmless on wrongful levy, etc. on individual retirement plan.

Sec. 104. Seven-day threshold on tolling of statute of limitations during tax review.

Sec. 105. Study of liens and levies.

Sec. 106. Low-income taxpayer clinics.

TITLE II—IMPROVED ADMINISTRATIVE EFFICIENCY AND
 CONFIDENTIALITY

SUBTITLE A—EFFICIENCY OF TAX ADMINISTRATION

Sec. 201. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.

Sec. 202. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.

Sec. 203. Jurisdiction of Tax Court over collection due process cases.

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Sec. 205. 15-day delay in due date for electronically filed individual income tax returns.

SUBTITLE B—CONFIDENTIALITY AND DISCLOSURE

Sec. 211. Collection activities with respect to joint return disclosable to either spouse based on oral request.

Sec. 212. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.

Sec. 213. Compliance by contractors with confidentiality safeguards.

Sec. 214. Higher standards for requests for and consents to disclosure.

Sec. 215. Notice to taxpayer concerning administrative determination of browsing; annual report.

Sec. 216. Expanded disclosure in emergency circumstances.

SUBTITLE C—OTHER PROVISIONS

Sec. 221. Better means of communicating with taxpayers.

Sec. 222. Enrolled agents.

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TITLE III—REFORM OF PENALTY AND INTEREST PROVISIONS

- Sec. 301. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
- Sec. 302. Exclusion from gross income for interest on overpayments of income tax by individuals.
- Sec. 303. Abatement of interest.
- Sec. 304. Deposits made to suspend running of interest on potential underpayments.
- Sec. 305. Expansion of interest netting for individuals.
- Sec. 306. Waiver of certain penalties for first-time unintentional minor errors.
- Sec. 307. Frivolous tax submissions.
- Sec. 308. Clarification of application of Federal tax deposit penalty.

1 **TITLE I—FAIRNESS IN TAX**
 2 **COLLECTION PROCEDURES**

3 **SEC. 101. PARTIAL PAYMENT OF TAX LIABILITY IN IN-**
 4 **STALLMENT AGREEMENTS.**

5 (a) IN GENERAL.—

6 (1) Section 6159(a) (relating to authorization
 7 of agreements) is amended—

8 (A) by striking “satisfy liability for pay-
 9 ment of” and inserting “make payment on”,
 10 and

11 (B) by inserting “full or partial” after
 12 “facilitate”.

13 (2) Section 6159(c) (relating to Secretary re-
 14 quired to enter into installment agreements in cer-
 15 tain cases) is amended in the matter preceding para-
 16 graph (1) by inserting “full” before “payment”.

17 (b) REQUIREMENT TO REVIEW PARTIAL PAYMENT
 18 AGREEMENTS EVERY TWO YEARS.—Section 6159 is
 19 amended by redesignating subsections (d) and (e) as sub-

1 sections (e) and (f), respectively, and inserting after sub-
2 section (c) the following new subsection:

3 “(d) SECRETARY REQUIRED TO REVIEW INSTALL-
4 MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY
5 TWO YEARS.—In the case of an agreement entered into
6 by the Secretary under subsection (a) for partial collection
7 of a tax liability, the Secretary shall review the agreement
8 at least once every 2 years.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to agreements entered into on or
11 after the date of the enactment of this Act.

12 **SEC. 102. EXTENSION OF TIME FOR RETURN OF PROPERTY.**

13 (a) EXTENSION OF TIME FOR RETURN OF PROPERTY
14 SUBJECT TO LEVY.—Subsection (b) of section 6343
15 (relating to return of property) is amended by striking “9
16 months” and inserting “2 years”.

17 (b) PERIOD OF LIMITATION ON SUITS.—Subsection
18 (c) of section 6532 (relating to suits by persons other than
19 taxpayers) is amended—

20 (1) in paragraph (1) by striking “9 months”
21 and inserting “2 years”, and

22 (2) in paragraph (2) by striking “9-month” and
23 inserting “2-year”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to—

1 (1) levies made after the date of the enactment
2 of this Act, and

3 (2) levies made on or before such date if the 9-
4 month period has not expired under section 6343(b)
5 of the Internal Revenue Code of 1986 (without re-
6 gard to this section) as of such date.

7 **SEC. 103. INDIVIDUALS HELD HARMLESS ON WRONGFUL**
8 **LEVY, ETC., ON INDIVIDUAL RETIREMENT**
9 **PLAN.**

10 (a) IN GENERAL.—Section 6343 (relating to author-
11 ity to release levy and return property) is amended by add-
12 ing at the end the following new subsection:

13 “(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL
14 LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.—

15 “(1) IN GENERAL.—If the Secretary determines
16 that an individual retirement plan has been levied
17 upon in a case to which subsection (b) or (d)(2)(A)
18 applies, an amount equal to the sum of—

19 “(A) the amount of money returned by the
20 Secretary on account of such levy, and

21 “(B) interest paid under subsection (c) on
22 such amount of money,

23 may be deposited into an individual retirement plan
24 (other than an endowment contract) to which a roll-
25 over from the plan levied upon is permitted.

1 “(2) TREATMENT AS ROLLOVER.—The distribu-
2 tion on account of the levy and any deposit under
3 paragraph (1) with respect to such distribution shall
4 be treated for purposes of this title as if such dis-
5 tribution and deposit were part of a rollover de-
6 scribed in section 408(d)(3)(A)(i); except that—

7 “(A) interest paid under subsection (c)
8 shall be treated as part of such distribution and
9 as not includible in gross income,

10 “(B) the 60-day requirement in such sec-
11 tion shall be treated as met if the deposit is
12 made not later than the 60th day after the day
13 on which the individual receives an amount
14 under paragraph (1) from the Secretary, and

15 “(C) such deposit shall not be taken into
16 account under section 408(d)(3)(B).

17 “(3) REFUND, ETC., OF INCOME TAX ON
18 LEVY.—If any amount is includible in gross income
19 for a taxable year by reason of a levy referred to in
20 paragraph (1) and any portion of such amount is
21 treated as a rollover under paragraph (2), any tax
22 imposed by chapter 1 on such portion shall not be
23 assessed, and if assessed shall be abated, and if col-
24 lected shall be credited or refunded as an overpay-

1 ment made on the due date for filing the return of
2 tax for such taxable year.

3 “(4) INTEREST.—Notwithstanding subsection
4 (d), interest shall be allowed under subsection (c) in
5 a case in which the Secretary makes a determination
6 described in subsection (d)(2)(A) with respect to a
7 levy upon an individual retirement plan.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to amounts paid under subsections
10 (b), (c), and (d)(2)(A) of section 6343 of the Internal Rev-
11 enue Code of 1986 after December 31, 2002.

12 **SEC. 104. SEVEN-DAY THRESHOLD ON TOLLING OF STAT-**
13 **UTE OF LIMITATIONS DURING TAX REVIEW.**

14 (a) IN GENERAL.—Section 7811(d)(1) (relating to
15 suspension of running of period of limitation) is amended
16 by inserting after “application,” the following: “but only
17 if the date of such decision is at least 7 days after the
18 date of the taxpayer’s application”.

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

22 **SEC. 105. STUDY OF LIENS AND LEVIES.**

23 The Secretary of the Treasury, or the Secretary’s del-
24 egate, shall conduct a study of the practices of the Inter-

1 nal Revenue Service concerning liens and levies. The study
2 shall examine—

3 (1) the declining use of liens and levies by the
4 Internal Revenue Service, and

5 (2) the practicality of recording liens and lev-
6 ying against property in cases in which the cost of
7 such actions exceeds the amount to be realized from
8 such property.

9 Not later than 1 year after the date of the enactment of
10 this Act, the Secretary shall submit such study to the
11 Committee on Ways and Means of the House of Rep-
12 resentatives and the Committee on Finance of the Senate.

13 **SEC. 106. LOW-INCOME TAXPAYER CLINICS.**

14 (a) **LIMITATION ON AMOUNT OF GRANTS.**—Para-
15 graph (1) of section 7526(c) (relating to special rules and
16 limitations) is amended by striking “\$6,000,000 per year”
17 and inserting “\$9,000,000 for 2002, \$12,000,000 for
18 2003, and \$15,000,000 for each year thereafter”.

19 (b) **LIMITATION ON USE OF CLINICS FOR TAX RE-**
20 **TURN PREPARATION.**—Subparagraph (A) of section
21 7526(b)(1) is amended by adding at the end the following
22 flush language:

23 “The term does not include a clinic that pro-
24 vides routine tax return preparation. The pre-
25 ceding sentence shall not apply to return prepa-

1 ration in connection with a controversy with the
2 Internal Revenue Service.”.

3 (c) PROMOTION OF CLINICS.—Section 7526(c) is
4 amended by adding at the end the following new para-
5 graph:

6 “(7) PROMOTION OF CLINICS.—The Secretary
7 is authorized to promote the benefits of and encour-
8 age the use of low-income taxpayer clinics through
9 the use of mass communications, referrals, and other
10 means.”.

11 **TITLE II—IMPROVED ADMINIS-**
12 **TRATIVE EFFICIENCY AND**
13 **CONFIDENTIALITY**
14 **Subtitle A—Efficiency of Tax**
15 **Administration**

16 **SEC. 201. REVISIONS RELATING TO TERMINATION OF EM-**
17 **PLOYMENT OF INTERNAL REVENUE SERVICE**
18 **EMPLOYEES FOR MISCONDUCT.**

19 (a) IN GENERAL.—Subchapter A of chapter 80
20 (relating to application of internal revenue laws) is amend-
21 ed by inserting after section 7804 the following new sec-
22 tion:

23 **“SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.**

24 “(a) DISCIPLINARY ACTIONS.—

1 “(1) IN GENERAL.—Subject to subsection (c),
2 the Commissioner shall take an action in accordance
3 with the guidelines established under paragraph (2)
4 against any employee of the Internal Revenue Serv-
5 ice if there is a final administrative or judicial deter-
6 mination that such employee committed any act or
7 omission described under subsection (b) in the per-
8 formance of the employee’s official duties or where
9 a nexus to the employee’s position exists.

10 “(2) GUIDELINES.—The Commissioner shall
11 issue guidelines for determining the appropriate level
12 of discipline, up to and including termination of em-
13 ployment, for committing any act or omission de-
14 scribed under subsection (b).

15 “(b) ACTS OR OMISSIONS.—The acts or omissions de-
16 scribed under this subsection are—

17 “(1) willful failure to obtain the required ap-
18 proval signatures on documents authorizing the sei-
19 zure of a taxpayer’s home, personal belongings, or
20 business assets;

21 “(2) willfully providing a false statement under
22 oath with respect to a material matter involving a
23 taxpayer or taxpayer representative;

24 “(3) with respect to a taxpayer or taxpayer rep-
25 resentative, the willful violation of—

1 “(A) any right under the Constitution of
2 the United States;

3 “(B) any civil right established under—

4 “(i) title VI or VII of the Civil Rights
5 Act of 1964;

6 “(ii) title IX of the Education Amend-
7 ments of 1972;

8 “(iii) the Age Discrimination in Em-
9 ployment Act of 1967;

10 “(iv) the Age Discrimination Act of
11 1975;

12 “(v) section 501 or 504 of the Reha-
13 bilitation Act of 1973; or

14 “(vi) title I of the Americans with
15 Disabilities Act of 1990; or

16 “(C) the Internal Revenue Service policy
17 on unauthorized inspection of returns or return
18 information;

19 “(4) willfully falsifying or destroying documents
20 to conceal mistakes made by any employee with re-
21 spect to a matter involving a taxpayer or taxpayer
22 representative;

23 “(5) assault or battery on a taxpayer or tax-
24 payer representative, but only if there is a criminal

1 conviction, or a final adverse judgment by a court in
2 a civil case, with respect to the assault or battery;

3 “(6) willful violations of this title, Department
4 of the Treasury regulations, or policies of the Inter-
5 nal Revenue Service (including the Internal Revenue
6 Manual) for the purpose of retaliating against, or
7 harassing, a taxpayer or taxpayer representative;

8 “(7) willful misuse of the provisions of section
9 6103 for the purpose of concealing information from
10 a congressional inquiry;

11 “(8) willful failure to file any return of tax re-
12 quired under this title on or before the date pre-
13 scribed therefor (including any extensions) when a
14 tax is due and owing, unless such failure is due to
15 reasonable cause and not due to willful neglect;

16 “(9) willful understatement of Federal tax li-
17 ability, unless such understatement is due to reason-
18 able cause and not due to willful neglect; and

19 “(10) threatening to audit a taxpayer, or to
20 take other action under this title, for the purpose of
21 extracting personal gain or benefit.

22 “(c) DETERMINATIONS OF COMMISSIONER.—

23 “(1) IN GENERAL.—The Commissioner may
24 take a personnel action other than a disciplinary ac-
25 tion provided for in the guidelines under subsection

1 (a)(2) for an act or omission described under sub-
2 section (b).

3 “(2) DISCRETION.—The exercise of authority
4 under paragraph (1) shall be at the sole discretion
5 of the Commissioner and may not be delegated to
6 any other officer. The Commissioner, in his sole dis-
7 cretion, may establish a procedure to determine if an
8 individual should be referred to the Commissioner
9 for a determination by the Commissioner under
10 paragraph (1).

11 “(3) NO APPEAL.—Notwithstanding any other
12 provision of law, any determination of the Commis-
13 sioner under this subsection may not be reviewed in
14 any administrative or judicial proceeding. A finding
15 that an act or omission described under subsection
16 (b) occurred may be reviewed.

17 “(d) DEFINITION.—For the purposes of the provi-
18 sions described in clauses (i), (ii), and (iv) of subsection
19 (b)(3)(B), references to a program or activity regarding
20 Federal financial assistance or an education program or
21 activity receiving Federal financial assistance shall include
22 any program or activity conducted by the Internal Rev-
23 enue Service for a taxpayer.

1 “(e) ANNUAL REPORT.—The Commissioner shall
2 submit to Congress annually a report on disciplinary ac-
3 tions under this section.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for chapter 80 is amended by inserting after the item re-
6 lating to section 7804 the following new item:

“Sec. 7804A. Disciplinary actions for misconduct.”.

7 (c) REPEAL OF SUPERSEDED SECTION.—Section
8 1203 of the Internal Revenue Service Restructuring and
9 Reform Act of 1998 (Public Law 105–206; 112 Stat. 720)
10 is repealed.

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

14 **SEC. 202. CONFIRMATION OF AUTHORITY OF TAX COURT**
15 **TO APPLY DOCTRINE OF EQUITABLE**
16 **RECOUPMENT.**

17 (a) CONFIRMATION OF AUTHORITY OF TAX COURT
18 TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—
19 Subsection (b) of section 6214 (relating to jurisdiction
20 over other years and quarters) is amended by adding at
21 the end the following new sentence: “Notwithstanding the
22 preceding sentence, the Tax Court may apply the doctrine
23 of equitable recoupment to the same extent that it is avail-
24 able in civil tax cases before the district courts of the

1 United States and the United States Court of Federal
2 Claims.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to any action or proceeding in the
5 Tax Court with respect to which a decision has not become
6 final (as determined under section 7481 of the Internal
7 Revenue Code of 1986) as of the date of the enactment
8 of this Act.

9 **SEC. 203. JURISDICTION OF TAX COURT OVER COLLECTION**
10 **DUE PROCESS CASES.**

11 (a) IN GENERAL.—Section 6330(d)(1) (relating to
12 judicial review of determination) is amended to read as
13 follows:

14 “(1) JUDICIAL REVIEW OF DETERMINATION.—
15 The person may, within 30 days of a determination
16 under this section, appeal such determination to the
17 Tax Court (and the Tax Court shall have jurisdic-
18 tion with respect to such matter).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to judicial appeals filed after
21 the date of the enactment of this Act.

22 **SEC. 204. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS**
23 **IN COMPROMISE.**

24 (a) IN GENERAL.—Section 7122(b) (relating to
25 record) is amended by striking “Whenever a compromise”

1 and all that follows through “his delegate” and inserting
2 “If the Secretary determines that an opinion of the Gen-
3 eral Counsel for the Department of the Treasury, or the
4 Counsel’s delegate, is required with respect to a com-
5 promise, there shall be placed on file in the office of the
6 Secretary such opinion”.

7 (b) CONFORMING AMENDMENTS.—Section 7122(b) is
8 amended by striking the second and third sentences.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to offers-in-compromise submitted
11 or pending on or after the date of the enactment of this
12 Act.

13 **SEC. 205. 15-DAY DELAY IN DUE DATE FOR ELECTRONI-**
14 **CALLY FILED INDIVIDUAL INCOME TAX RE-**
15 **TURNS.**

16 (a) IN GENERAL.—Section 6072 (relating to time for
17 filing income tax returns) is amended by adding at the
18 end the following new subsection:

19 “(f) ELECTRONICALLY FILED RETURNS OF INDIVID-
20 UALS.—

21 “(1) IN GENERAL.—Returns of an individual
22 under section 6012 or 6013 (other than an indi-
23 vidual to whom subsection (c) applies) which are
24 filed electronically—

1 “(A) in the case of returns filed on the
2 basis of a calendar year, shall be filed on or be-
3 fore the 30th day of April following the close of
4 the calendar year, and

5 “(B) in the case of returns filed on the
6 basis of a fiscal year, shall be filed on or before
7 the last day of the 4th month following the
8 close of the fiscal year.

9 “(2) ELECTRONIC FILING.—Paragraph (1)
10 shall not apply to any return unless—

11 “(A) such return is accepted by the Sec-
12 retary, and

13 “(B) the balance due (if any) shown on
14 such return is paid electronically in a manner
15 prescribed by the Secretary.

16 “(3) SPECIAL RULES.—

17 “(A) ESTIMATED TAX.—If—

18 “(i) paragraph (1) applies to an indi-
19 vidual for any taxable year, and

20 “(ii) there is an overpayment of tax
21 shown on the return for such year which
22 the individual allows against the individ-
23 ual’s obligation under section 6641,

24 then, with respect to the amount so allowed,
25 any reference in section 6641 to the April 15

1 following such taxable year shall be treated as
2 a reference to April 30.

3 “(B) REFERENCES TO DUE DATE.—Para-
4 graph (1) shall apply solely for purposes of de-
5 termining the due date for the individual’s obli-
6 gation to file and pay tax and, except as other-
7 wise provided by the Secretary, shall be treated
8 as an extension of the due date for any other
9 purpose under this title.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2001.

13 **Subtitle B—Confidentiality and** 14 **Disclosure**

15 **SEC. 211. COLLECTION ACTIVITIES WITH RESPECT TO** 16 **JOINT RETURN DISCLOSABLE TO EITHER** 17 **SPOUSE BASED ON ORAL REQUEST.**

18 (a) IN GENERAL.—Paragraph (8) of section 6103(e)
19 (relating to disclosure of collection activities with respect
20 to joint return) is amended by striking “in writing” the
21 first place it appears.

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

1 **SEC. 212. TAXPAYER REPRESENTATIVES NOT SUBJECT TO**
2 **EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.**
3

4 (a) IN GENERAL.—Subsection (h) of section 6103
5 (relating to disclosure to certain Federal officers and em-
6 ployees for purposes of tax administration, etc.) is amend-
7 ed by adding at the end the following new paragraph:

8 “(7) TAXPAYER REPRESENTATIVES.—Notwith-
9 standing paragraph (1), the return of the represent-
10 ative of a taxpayer whose return is being examined
11 by an officer or employee of the Department of the
12 Treasury shall not be open to inspection by such of-
13 ficer or employee on the sole basis of the representa-
14 tive’s relationship to the taxpayer unless a super-
15 visor of such officer or employee has approved the
16 inspection of the return of such representative on a
17 basis other than by reason of such relationship.”.

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

21 **SEC. 213. COMPLIANCE BY CONTRACTORS WITH CONFIDEN-**
22 **TIALITY SAFEGUARDS.**

23 (a) IN GENERAL.—Section 6103(p) (relating to State
24 law requirements) is amended by adding at the end the
25 following new paragraph:

1 “(9) DISCLOSURE TO CONTRACTORS.—Notwith-
2 standing any other provision of this section, no re-
3 turn or return information shall be disclosed by any
4 officer or employee of any Federal agency or State
5 to any contractor of such agency or State unless
6 such agency or State—

7 “(A) has requirements in effect which re-
8 quire each contractor of such agency or State
9 which would have access to returns or return
10 information to provide safeguards (within the
11 meaning of paragraph (4)) to protect the con-
12 fidentiality of such returns or return informa-
13 tion,

14 “(B) agrees to conduct an annual, on-site
15 review (mid-point review in the case of con-
16 tracts of less than 1 year in duration) of each
17 contractor to determine compliance with such
18 requirements,

19 “(C) submits the findings of the most re-
20 cent review conducted under subparagraph (B)
21 to the Secretary as part of the report required
22 by paragraph (4)(E), and

23 “(D) certifies to the Secretary for the most
24 recent annual period that all contractors are in
25 compliance with all such requirements.

1 The certification required by subparagraph (D) shall
2 include the name and address of each contractor, a
3 description of the contract of the contractor with the
4 Federal agency or State, and the duration of such
5 contract.”.

6 (b) CONFORMING AMENDMENT.—Subparagraph (B)
7 of section 6103(p)(8) is amended by inserting “or para-
8 graph (9)” after “subparagraph (A)”.

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to disclosures made after De-
12 cember 31, 2002.

13 (2) CERTIFICATIONS.—The first certification
14 under section 6103(p)(9)(D) of the Internal Revenue
15 Code of 1986, as added by subsection (a), shall be
16 made with respect to calendar year 2003.

17 **SEC. 214. HIGHER STANDARDS FOR REQUESTS FOR AND**
18 **CONSENTS TO DISCLOSURE.**

19 (a) IN GENERAL.—Subsection (c) of section 6103
20 (relating to disclosure of returns and return information
21 to designee of taxpayer) is amended by adding at the end
22 the following new paragraphs:

23 “(2) REQUIREMENTS FOR VALID REQUESTS
24 AND CONSENTS.—A request for or consent to disclo-
25 sure under paragraph (1) shall only be valid for pur-

1 poses of this section or sections 7213, 7213A, or
2 7431 if—

3 “(A) at the time of execution, such request
4 or consent designates a recipient of such disclo-
5 sure and is dated, and

6 “(B) at the time such request or consent
7 is submitted to the Secretary, the submitter of
8 such request or consent certifies, under penalty
9 of perjury, that such request or consent com-
10 plied with subparagraph (A).

11 “(3) RESTRICTIONS ON PERSONS OBTAINING
12 INFORMATION.—Any person shall, as a condition for
13 receiving return or return information under para-
14 graph (1)—

15 “(A) ensure that such return and return
16 information is kept confidential,

17 “(B) use such return and return informa-
18 tion only for the purpose for which it was re-
19 quested, and

20 “(C) not disclose such return and return
21 information except to accomplish the purpose
22 for which it was requested, unless a separate
23 consent from the taxpayer is obtained.

24 “(4) REQUIREMENTS FOR FORM PRESCRIBED
25 BY SECRETARY.—For purposes of this subsection,

1 the Secretary shall prescribe a form for requests and
2 consents which shall—

3 “(A) contain a warning, prominently dis-
4 played, informing the taxpayer that the form
5 should not be signed unless it is completed,

6 “(B) state that if the taxpayer believes
7 there is an attempt to coerce him to sign an in-
8 complete or blank form, the taxpayer should re-
9 port the matter to the Treasury Inspector Gen-
10 eral for Tax Administration, and

11 “(C) contain the address and telephone
12 number of the Treasury Inspector General for
13 Tax Administration.”.

14 (b) REPORT.—Not later than 18 months after the
15 date of the enactment of this Act, the Treasury Inspector
16 General for Tax Administration shall submit a report to
17 the Congress on compliance with the designation and cer-
18 tification requirements applicable to requests for or con-
19 sent to disclosure of returns and return information under
20 section 6103(c) of the Internal Revenue Code of 1986, as
21 amended by subsection (a). Such report shall—

22 (1) evaluate (on the basis of random sampling)
23 whether—

24 (A) the amendment made by subsection (a)
25 is achieving the purposes of this section;

1 (B) requesters and submitters for such dis-
2 closure are continuing to evade the purposes of
3 this section and, if so, how; and

4 (C) the sanctions for violations of such re-
5 quirements are adequate; and

6 (2) include such recommendations that the
7 Treasury Inspector General for Tax Administration
8 considers necessary or appropriate to better achieve
9 the purposes of this section.

10 (c) CONFORMING AMENDMENT.—Section 6103(c) is
11 amended by striking “TAXPAYER.—The Secretary” and
12 inserting “TAXPAYER.—

13 “(1) IN GENERAL.—The Secretary”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to requests and consents made
16 after 3 months after the date of the enactment of this
17 Act.

18 **SEC. 215. NOTICE TO TAXPAYER CONCERNING ADMINIS-**
19 **TRATIVE DETERMINATION OF BROWSING; AN-**
20 **NUAL REPORT.**

21 (a) NOTICE TO TAXPAYER.—Subsection (e) of section
22 7431 (relating to notification of unlawful inspection and
23 disclosure) is amended by adding at the end the following:
24 “The Secretary shall also notify such taxpayer if the
25 Treasury Inspector General for Tax Administration deter-

1 mines that such taxpayer's return or return information
2 was inspected or disclosed in violation of any of the provi-
3 sions specified in paragraph (1), (2), or (3).”.

4 (b) REPORTS.—Subsection (p) of section 6103
5 (relating to procedure and recordkeeping), as amended by
6 section 245, is further amended by adding at the end the
7 following new paragraph:

8 “(10) REPORT ON UNAUTHORIZED DISCLOSURE
9 AND INSPECTION.—As part of the report required by
10 paragraph (3)(C) for each calendar year, the Sec-
11 retary shall furnish information regarding the unau-
12 thorized disclosure and inspection of returns and re-
13 turn information, including the number, status, and
14 results of—

15 “(A) administrative investigations,

16 “(B) civil lawsuits brought under section
17 7431 (including the amounts for which such
18 lawsuits were settled and the amounts of dam-
19 ages awarded), and

20 “(C) criminal prosecutions.”.

21 (c) EFFECTIVE DATE.—

22 (1) NOTICE.—The amendment made by sub-
23 section (a) shall apply to determinations made after
24 the date of the enactment of this Act.

1 (2) REPORTS.—The amendment made by sub-
2 section (b) shall apply to calendar years ending after
3 the date of the enactment of this Act.

4 **SEC. 216. EXPANDED DISCLOSURE IN EMERGENCY CIR-**
5 **CUMSTANCES.**

6 (a) IN GENERAL.—Section 6103(i)(3)(B) (relating to
7 danger of death or physical injury) is amended by striking
8 “or State” and inserting “, State, or local”.

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

12 **Subtitle C—Other Provisions**

13 **SEC. 221. BETTER MEANS OF COMMUNICATING WITH TAX-**
14 **PAYERS.**

15 Not later than 18 months after the date of the enact-
16 ment of this Act, the Treasury Inspector General for Tax
17 Administration shall submit a report to Congress evalu-
18 ating whether technological advances, such as e-mail and
19 facsimile transmission, permit the use of alternative
20 means for the Internal Revenue Service to communicate
21 with taxpayers.

22 **SEC. 222. ENROLLED AGENTS.**

23 (a) IN GENERAL.—Chapter 77 (relating to miscella-
24 neous provisions) is amended by adding at the end the
25 following new section:

1 **“SEC. 7527. ENROLLED AGENTS.**

2 “(a) IN GENERAL.—The Secretary may prescribe
3 such regulations as may be necessary to regulate the con-
4 duct of enrolled agents in regards to their practice before
5 the Internal Revenue Service.

6 “(b) USE OF CREDENTIALS.—Any enrolled agents
7 properly licensed to practice as required under rules pro-
8 mulgated under section (a) herein shall be allowed to use
9 the credentials or designation as ‘enrolled agent’, ‘EA’, or
10 ‘E.A.’”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for chapter 77 is amended by adding at the end the fol-
13 lowing new item:

“Sec. 7525. Enrolled agents.”.

14 (c) PRIOR REGULATIONS.—Nothing in the amend-
15 ments made by this section shall be construed to have any
16 effect on part 10 of title 31, Code of Federal Regulations,
17 or any other Federal rule or regulation issued before the
18 date of the enactment of this Act.

19 **SEC. 223. FINANCIAL MANAGEMENT SERVICE FEES.**

20 Notwithstanding any other provision of law, the Fi-
21 nancial Management Service may charge the Internal Rev-
22 enue Service, and the Internal Revenue Service may pay
23 the Financial Management Service, a fee sufficient to
24 cover the full cost of implementing a continuous levy pro-
25 gram under subsection (h) of section 6331 of the Internal

1 Revenue Code of 1986. Any such fee shall be based on
2 actual levies made and shall be collected by the Financial
3 Management Service by the retention of a portion of
4 amounts collected by levy pursuant to that subsection.
5 Amounts received by the Financial Management Service
6 as fees under that subsection shall be deposited into the
7 account of the Department of the Treasury under section
8 3711(g)(7) of title 31, United States Code, and shall be
9 collected and accounted for in accordance with the provi-
10 sions of that section. The amount credited against the tax-
11 payer's liability on account of the continuous levy shall
12 be the amount levied, without reduction for the amount
13 paid to the Financial Management Service as a fee.

14 **SEC. 224. AMENDMENT TO TREASURY AUCTION REFORMS.**

15 (a) IN GENERAL.—Clause (i) of section 202(c)(4)(B)
16 of the Government Securities Act Amendments of 1993
17 (31 U.S.C. 3121 note) is amended by inserting before the
18 semicolon “(or, if earlier, at the time the Secretary re-
19 leases the minutes of the meeting in accordance with para-
20 graph (2))”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to meetings held after the date
23 of the enactment of this Act.

1 **TITLE III—REFORM OF PENALTY**
 2 **AND INTEREST PROVISIONS**

3 **SEC. 301. FAILURE TO PAY ESTIMATED TAX PENALTY CON-**
 4 **VERTED TO INTEREST CHARGE ON ACCUMU-**
 5 **LATED UNPAID BALANCE.**

6 (a) PENALTY MOVED TO INTEREST CHAPTER OF
 7 CODE.—The Internal Revenue Code of 1986 is amended
 8 by redesignating section 6654 as section 6641 and by
 9 moving section 6641 (as so redesignated) from part I of
 10 subchapter A of chapter 68 to the end of subchapter E
 11 of chapter 67 (as added by subsection (e)(1) of this sec-
 12 tion).

13 (b) PENALTY CONVERTED TO INTEREST CHARGE.—
 14 The heading and subsections (a) and (b) of section 6641
 15 (as so redesignated) are amended to read as follows:

16 **“SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY**
 17 **ESTIMATED INCOME TAX.**

18 “(a) IN GENERAL.—Interest shall be paid on any un-
 19 derpayment of estimated tax by an individual for a taxable
 20 year for each day of such underpayment. The amount of
 21 such interest for any day shall be the product of the un-
 22 derpayment rate established under subsection (b)(2) mul-
 23 tiplied by the amount of the underpayment.

24 “(b) AMOUNT OF UNDERPAYMENT; INTEREST
 25 RATE.—For purposes of subsection (a)—

1 “(1) AMOUNT.—The amount of the under-
2 payment on any day shall be the excess of—

3 “(A) the sum of the required installments
4 for the taxable year the due dates for which are
5 on or before such day, over

6 “(B) the sum of the amounts (if any) of
7 estimated tax payments made on or before such
8 day on such required installments.

9 “(2) DETERMINATION OF INTEREST RATE.—

10 “(A) IN GENERAL.—The underpayment
11 rate with respect to any day in an installment
12 underpayment period shall be the under-
13 payment rate established under section 6621
14 for the first day of the calendar quarter in
15 which such installment underpayment period
16 begins.

17 “(B) INSTALLMENT UNDERPAYMENT PE-
18 RIOD.—For purposes of subparagraph (A), the
19 term ‘installment underpayment period’ means
20 the period beginning on the day after the due
21 date for a required installment and ending on
22 the due date for the subsequent required in-
23 stallment (or in the case of the 4th required
24 installment, the 15th day of the 4th month fol-
25 lowing the close of a taxable year).

1 “(C) DAILY RATE.—The rate determined
2 under subparagraph (A) shall be applied on a
3 daily basis and shall be based on the assump-
4 tion of 365 days in a calendar year.

5 “(3) TERMINATION OF ESTIMATED TAX INTER-
6 EST.—No day after the end of the installment un-
7 derpayment period for the 4th required installment
8 specified in paragraph (2)(B) for a taxable year
9 shall be treated as a day of underpayment with re-
10 spect to such taxable year.”.

11 (c) INCREASE IN SAFE HARBOR WHERE TAX IS
12 SMALL.—

13 (1) IN GENERAL.—Clause (i) of section
14 6641(d)(1)(B) (as so redesignated) is amended to
15 read as follows:

16 “(i) the lesser of—

17 “(I) 90 percent of the tax shown
18 on the return for the taxable year (or,
19 if no return is filed, 90 percent of the
20 tax for such year), or

21 “(II) the tax shown on the return
22 for the taxable year (or, if no return
23 is filed, the tax for such year) reduced
24 (but not below zero) by \$2,000, or”.

1 (2) CONFORMING AMENDMENT.—Subsection (e)
2 of section 6641 (as so redesignated) is amended by
3 striking paragraph (1) and redesignating paragraphs
4 (2) and (3) as paragraphs (1) and (2), respectively.

5 (d) CONFORMING AMENDMENTS.—

6 (1) Paragraphs (1) and (2) of subsection (e)
7 (as redesignated by subsection (c)(2)) and sub-
8 section (h) of section 6641 (as so designated) are
9 each amended by striking “addition to tax” each
10 place it occurs and inserting “interest”.

11 (2) Section 167(g)(5)(D) is amended by strik-
12 ing “6654” and inserting “6641”.

13 (3) Section 460(b)(1) is amended by striking
14 “6654” and inserting “6641”.

15 (4) Section 3510(b) is amended—

16 (A) by striking “section 6654” in para-
17 graph (1) and inserting “section 6641”;

18 (B) by amending paragraph (2)(B) to read
19 as follows:

20 “(B) no interest would be required to be
21 paid (but for this section) under 6641 for such
22 taxable year by reason of the \$2,000 amount
23 specified in section 6641(d)(1)(B)(i)(II).”;

1 (C) by striking “section 6654(d)(2)” in
2 paragraph (3) and inserting “section
3 6641(d)(2)”; and

4 (D) by striking paragraph (4).

5 (5) Section 6201(b)(1) is amended by striking
6 “6654” and inserting “6641”.

7 (6) Section 6601(h) is amended by striking
8 “6654” and inserting “6641”.

9 (7) Section 6621(b)(2)(B) is amended by strik-
10 ing “addition to tax under section 6654” and insert-
11 ing “interest required to be paid under section
12 6641”.

13 (8) Section 6622(b) is amended—

14 (A) by striking “PENALTY FOR” in the
15 heading; and

16 (B) by striking “addition to tax under sec-
17 tion 6654 or 6655” and inserting “interest re-
18 quired to be paid under section 6641 or addi-
19 tion to tax under section 6655”.

20 (9) Section 6658(a) is amended—

21 (A) by striking “6654, or 6655” and in-
22 serting “or 6655, and no interest shall be re-
23 quired to be paid under section 6641,”; and

24 (B) by inserting “or paying interest” after
25 “the tax” in paragraph (2)(B)(ii).

1 (10) Section 6665(b) is amended—

2 (A) in the matter preceding paragraph (1)

3 by striking “, 6654,”; and

4 (B) in paragraph (2) by striking “6654
5 or”.

6 (11) Section 7203 is amended by striking
7 “section 6654 or 6655” and inserting “section 6655
8 or interest required to be paid under section 6641”.

9 (e) CLERICAL AMENDMENTS.—

10 (1) Chapter 67 is amended by inserting after
11 subchapter D the following:

12 **“Subchapter E—Interest on Failure by**
13 **Individual to Pay Estimated Income Tax**

“Sec. 6641. Interest on failure by individual to pay estimated in-
come tax.”.

14 (2) The table of subchapters for chapter 67 is
15 amended by adding at the end the following new
16 items:

“Subchapter D. Notice requirements.

“Subchapter E. Interest on failure by individual to pay estimated
income tax.”.

17 (3) The table of sections for part I of sub-
18 chapter A of chapter 68 is amended by striking the
19 item relating to section 6654.

20 (f) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to installment payments for taxable
22 years beginning after December 31, 2002.

1 **SEC. 302. EXCLUSION FROM GROSS INCOME FOR INTEREST**
2 **ON OVERPAYMENTS OF INCOME TAX BY INDI-**
3 **VIDUALS.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
5 ter 1 (relating to items specifically excluded from gross
6 income) is amended by inserting after section 139 the fol-
7 lowing new section:

8 **“SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTER-**
9 **EST ON OVERPAYMENTS OF INCOME TAX BY**
10 **INDIVIDUALS.**

11 “(a) IN GENERAL.—In the case of an individual,
12 gross income shall not include interest paid under section
13 6611 on any overpayment of tax imposed by this subtitle.

14 “(b) EXCEPTION.—Subsection (a) shall not apply in
15 the case of a failure to claim items resulting in the over-
16 payment on the original return if the Secretary determines
17 that the principal purpose of such failure is to take advan-
18 tage of subsection (a).

19 “(c) SPECIAL RULE FOR DETERMINING MODIFIED
20 ADJUSTED GROSS INCOME.—For purposes of this title,
21 interest not included in gross income under subsection (a)
22 shall not be treated as interest which is exempt from tax
23 for purposes of sections 32(i)(2)(B) and 6012(d) or any
24 computation in which interest exempt from tax under this
25 title is added to adjusted gross income.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for part III of subchapter B of chapter 1 is amended by
3 inserting after the item relating to section 139 the fol-
4 lowing new item:

“Sec. 139A. Exclusion from gross income for interest on over-
payments of income tax by individuals.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to interest received in calendar
7 years beginning after the date of the enactment of this
8 Act.

9 **SEC. 303. ABATEMENT OF INTEREST.**

10 (a) ABATEMENT OF INTEREST WITH RESPECT TO
11 ERRONEOUS REFUND CHECK WITHOUT REGARD TO SIZE
12 OF REFUND.—Paragraph (2) of section 6404(e) is amend-
13 ed by striking “unless—” and all that follows and insert-
14 ing “unless the taxpayer (or a related party) has in any
15 way caused such erroneous refund.”.

16 (b) ABATEMENT OF INTEREST TO EXTENT INTER-
17 EST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON
18 WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of
19 section 6404 is amended—

20 (1) in the subsection heading, by striking
21 “PENALTY OR ADDITION” and inserting “INTEREST,
22 PENALTY, OR ADDITION”; and

1 (2) in paragraph (1) and in subparagraph (B)
2 of paragraph (2), by striking “penalty or addition”
3 and inserting “interest, penalty, or addition”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to interest accruing
6 on or after the date of the enactment of this Act.

7 **SEC. 304. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
8 **TEREST ON POTENTIAL UNDERPAYMENTS.**

9 (a) IN GENERAL.—Subchapter A of chapter 67
10 (relating to interest on underpayments) is amended by
11 adding at the end the following new section:

12 **“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
13 **TEREST ON POTENTIAL UNDERPAYMENTS,**
14 **ETC.**

15 “(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN
16 AS PAYMENT OF TAX.—A taxpayer may make a cash de-
17 posit with the Secretary which may be used by the Sec-
18 retary to pay any tax imposed under subtitle A or B or
19 chapter 41, 42, 43, or 44 which has not been assessed
20 at the time of the deposit. Such a deposit shall be made
21 in such manner as the Secretary shall prescribe.

22 “(b) NO INTEREST IMPOSED.—To the extent that
23 such deposit is used by the Secretary to pay tax, for pur-
24 poses of section 6601 (relating to interest on underpay-

1 ments), the tax shall be treated as paid when the deposit
2 is made.

3 “(c) RETURN OF DEPOSIT.—Except in a case where
4 the Secretary determines that collection of tax is in jeop-
5 ardy, the Secretary shall return to the taxpayer any
6 amount of the deposit (to the extent not used for a pay-
7 ment of tax) which the taxpayer requests in writing.

8 “(d) PAYMENT OF INTEREST.—

9 “(1) IN GENERAL.—For purposes of section
10 6611 (relating to interest on overpayments), a de-
11 posit which is returned to a taxpayer shall be treated
12 as a payment of tax for any period to the extent
13 (and only to the extent) attributable to a disputable
14 tax for such period. Under regulations prescribed by
15 the Secretary, rules similar to the rules of section
16 6611(b)(2) shall apply.

17 “(2) DISPUTABLE TAX.—

18 “(A) IN GENERAL.—For purposes of this
19 section, the term ‘disputable tax’ means the
20 amount of tax specified at the time of the de-
21 posit as the taxpayer’s reasonable estimate of
22 the maximum amount of any tax attributable to
23 disputable items.

24 “(B) SAFE HARBOR BASED ON 30-DAY
25 LETTER.—In the case of a taxpayer who has

1 been issued a 30-day letter, the maximum
2 amount of tax under subparagraph (A) shall
3 not be less than the amount of the proposed de-
4 ficiency specified in such letter.

5 “(3) OTHER DEFINITIONS.—For purposes of
6 paragraph (2)—

7 “(A) DISPUTABLE ITEM.—The term
8 ‘disputable item’ means any item of income,
9 gain, loss, deduction, or credit if the taxpayer—

10 “(i) has a reasonable basis for its
11 treatment of such item, and

12 “(ii) reasonably believes that the Sec-
13 retary also has a reasonable basis for dis-
14 allowing the taxpayer’s treatment of such
15 item.

16 “(B) 30-DAY LETTER.—The term ‘30-day
17 letter’ means the first letter of proposed defi-
18 ciency which allows the taxpayer an opportunity
19 for administrative review in the Internal Rev-
20 enue Service Office of Appeals.

21 “(4) RATE OF INTEREST.—The rate of interest
22 allowable under this subsection shall be the Federal
23 short-term rate determined under section 6621(b),
24 compounded daily.

25 “(e) USE OF DEPOSITS.—

1 “(1) PAYMENT OF TAX.—Except as otherwise
2 provided by the taxpayer, deposits shall be treated
3 as used for the payment of tax in the order depos-
4 ited.

5 “(2) RETURNS OF DEPOSITS.—Deposits shall
6 be treated as returned to the taxpayer on a last-in,
7 first-out basis.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for subchapter A of chapter 67 is amended by adding at
10 the end the following new item:

 “Sec. 6603. Deposits made to suspend running of interest on po-
 tential underpayments, etc.”.

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to deposits made after the
14 date of the enactment of this Act.

15 (2) COORDINATION WITH DEPOSITS MADE
16 UNDER REVENUE PROCEDURE 84–58.—In the case of
17 an amount held by the Secretary of the Treasury or
18 his delegate on the date of the enactment of this Act
19 as a deposit in the nature of a cash bond deposit
20 pursuant to Revenue Procedure 84–58, the date that
21 the taxpayer identifies such amount as a deposit
22 made pursuant to section 6603 of the Internal Rev-
23 enue Code (as added by this Act) shall be treated

1 as the date such amount is deposited for purposes
2 of such section 6603.

3 **SEC. 305. EXPANSION OF INTEREST NETTING FOR INDIVID-**
4 **UALS.**

5 (a) IN GENERAL.—Subsection (d) of section 6621
6 (relating to elimination of interest on overlapping periods
7 of tax overpayments and underpayments) is amended by
8 adding at the end the following: “Solely for purposes of
9 the preceding sentence, section 6611(e) shall not apply in
10 the case of an individual.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply to interest accrued after Decem-
13 ber 31, 2002.

14 **SEC. 306. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME**
15 **UNINTENTIONAL MINOR ERRORS.**

16 (a) IN GENERAL.—Section 6651 (relating to failure
17 to file tax return or to pay tax) is amended by adding
18 at the end the following new subsection:

19 “(i) TREATMENT OF FIRST-TIME UNINTENTIONAL
20 MINOR ERRORS.—

21 “(1) IN GENERAL.—In the case of a return of
22 tax imposed by subtitle A filed by an individual, the
23 Secretary may waive an addition to tax under sub-
24 section (a) if—

1 “(A) the individual has a history of compli-
2 ance with the requirements of this title,

3 “(B) it is shown that the failure is due to
4 an unintentional minor error,

5 “(C) the penalty would be grossly dis-
6 proportionate to the action or expense that
7 would have been needed to avoid the error, and
8 imposing the penalty would be against equity
9 and good conscience,

10 “(D) waiving the penalty would promote
11 compliance with the requirements of this title
12 and effective tax administration, and

13 “(E) the taxpayer took all reasonable steps
14 to remedy the error promptly after discovering
15 it.

16 “(2) EXCEPTIONS.—Paragraph (1) shall not
17 apply if—

18 “(A) the Secretary has waived any addition
19 to tax under this subsection with respect to any
20 prior failure by such individual,

21 “(B) the failure is a mathematical or cler-
22 ical error (as defined in section 6213(g)(2)), or

23 “(C) the failure is the lack of a required
24 signature.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect on January 1, 2003.

3 **SEC. 307. FRIVOLOUS TAX SUBMISSIONS.**

4 (a) CIVIL PENALTIES.—Section 6702 is amended to
5 read as follows:

6 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

7 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
8 TURNS.—A person shall pay a penalty of \$5,000 if—

9 “(1) such person files what purports to be a re-
10 turn of a tax imposed by this title but which—

11 “(A) does not contain information on
12 which the substantial correctness of the self-as-
13 sessment may be judged, or

14 “(B) contains information that on its face
15 indicates that the self-assessment is substan-
16 tially incorrect; and

17 “(2) the conduct referred to in paragraph (1)—

18 “(A) is based on a position which the Sec-
19 retary has identified as frivolous under sub-
20 section (c), or

21 “(B) reflects a desire to delay or impede
22 the administration of Federal tax laws.

23 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
24 SUBMISSIONS.—

1 “(1) IMPOSITION OF PENALTY.—Except as pro-
2 vided in paragraph (3), any person who submits a
3 specified frivolous submission shall pay a penalty of
4 \$5,000.

5 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
6 purposes of this section—

7 “(A) SPECIFIED FRIVOLOUS SUBMIS-
8 SION.—The term ‘specified frivolous submis-
9 sion’ means a specified submission if any por-
10 tion of such submission—

11 “(i) is based on a position which the
12 Secretary has identified as frivolous under
13 subsection (c), or

14 “(ii) reflects a desire to delay or im-
15 pede the administration of Federal tax
16 laws.

17 “(B) SPECIFIED SUBMISSION.—The term
18 ‘specified submission’ means—

19 “(i) a request for a hearing under—

20 “(I) section 6320 (relating to no-
21 tice and opportunity for hearing upon
22 filing of notice of lien), or

23 “(II) section 6330 (relating to
24 notice and opportunity for hearing be-
25 fore levy), and

1 “(ii) an application under—

2 “(I) section 7811 (relating to
3 taxpayer assistance orders),

4 “(II) section 6159 (relating to
5 agreements for payment of tax liabil-
6 ity in installments), or

7 “(III) section 7122 (relating to
8 compromises).

9 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
10 SION.—If the Secretary provides a person with no-
11 tice that a submission is a specified frivolous sub-
12 mission and such person withdraws such submission
13 promptly after such notice, the penalty imposed
14 under paragraph (1) shall not apply with respect to
15 such submission.

16 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
17 retary shall prescribe (and periodically revise) a list of po-
18 sitions which the Secretary has identified as being frivo-
19 lous for purposes of this subsection. The Secretary shall
20 not include in such list any position that the Secretary
21 determines meets the requirement of section
22 6662(d)(2)(B)(ii)(II).

23 “(d) REDUCTION OF PENALTY.—The Secretary may
24 reduce the amount of any penalty imposed under this sec-
25 tion if the Secretary determines that such reduction would

1 promote compliance with and administration of the Fed-
2 eral tax laws.

3 “(e) PENALTIES IN ADDITION TO OTHER PEN-
4 ALTIES.—The penalties imposed by this section shall be
5 in addition to any other penalty provided by law.”.

6 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
7 HEARINGS BEFORE LEVY.—

8 (1) FRIVOLOUS REQUESTS DISREGARDED.—

9 Section 6330 (relating to notice and opportunity for
10 hearing before levy) is amended by adding at the
11 end the following new subsection:

12 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—

13 Notwithstanding any other provision of this section, if the
14 Secretary determines that any portion of a request for a
15 hearing under this section or section 6320 meets the re-
16 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
17 then the Secretary may treat such portion as if it were
18 never submitted and such portion shall not be subject to
19 any further administrative or judicial review.”.

20 (2) PRECLUSION FROM RAISING FRIVOLOUS

21 ISSUES AT HEARING.—Section 6330(c)(4) is amend-
22 ed—

23 (A) by striking “(A)” and inserting
24 “(A)(i)”;

25 (B) by striking “(B)” and inserting “(ii)”;

1 (C) by striking the period at the end of the
2 first sentence and inserting “; or”; and

3 (D) by inserting after subparagraph (A)(ii)
4 (as so redesignated) the following:

5 “(B) the issue meets the requirement of
6 clause (i) or (ii) of section 6702(b)(2)(A).”.

7 (3) STATEMENT OF GROUNDS.—Section
8 6330(b)(1) is amended by striking “under sub-
9 section (a)(3)(B)” and inserting “in writing under
10 subsection (a)(3)(B) and states the grounds for the
11 requested hearing”.

12 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
13 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
14 6320 is amended—

15 (1) in subsection (b)(1), by striking “under sub-
16 section (a)(3)(B)” and inserting “in writing under
17 subsection (a)(3)(B) and states the grounds for the
18 requested hearing”, and

19 (2) in subsection (c), by striking “and (e)” and
20 inserting “(e), and (g)”.

21 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
22 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
23 MENTS.—Section 7122 is amended by adding at the end
24 the following new subsection:

1 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
 2 standing any other provision of this section, if the Sec-
 3 retary determines that any portion of an application for
 4 an offer-in-compromise or installment agreement sub-
 5 mitted under this section or section 6159 meets the re-
 6 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
 7 then the Secretary may treat such portion as if it were
 8 never submitted and such portion shall not be subject to
 9 any further administrative or judicial review.”.

10 (e) CLERICAL AMENDMENT.—The table of sections
 11 for part I of subchapter B of chapter 68 is amended by
 12 striking the item relating to section 6702 and inserting
 13 the following new item:

“Sec. 6702. Frivolous tax submissions.”.

14 (f) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to submissions made and issues
 16 raised after the date on which the Secretary first pre-
 17 scribes a list under section 6702(e) of the Internal Rev-
 18 enue Code of 1986, as amended by subsection (a).

19 **SEC. 308. CLARIFICATION OF APPLICATION OF FEDERAL**
 20 **TAX DEPOSIT PENALTY.**

21 Nothing in section 6656 of the Internal Revenue
 22 Code of 1986 shall be construed to permit the percentage
 23 specified in subsection (b)(1)(A)(iii) thereof to apply other
 24 than in a case where the failure is for more than 15 days.

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