

# Union Calendar No. 362

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5719

[Report No. 110-584]

To amend the Internal Revenue Code of 1986 to conform return preparer penalty standards, delay implementation of withholding taxes on government contractors, enhance taxpayer protections, assist low-income taxpayers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2008

Mr. RANGEL (for himself, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. POMEROY, Mr. EMANUEL, Mr. BLUMENAUER, Mr. KIND, Ms. BERKLEY, Mr. CROWLEY, Mr. MEEK of Florida, Mr. ELLISON, Ms. GIFFORDS, Mr. HALL of New York, Mr. MAHONEY of Florida, Mr. WALZ of Minnesota, Mr. WELCH of Vermont, and Mrs. JONES of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 14, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 8, 2008]

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## A BILL

To amend the Internal Revenue Code of 1986 to conform return preparer penalty standards, delay implementation of withholding taxes on government contractors, enhance taxpayer protections, assist low-income taxpayers, 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, ETC.**

4        (a) *SHORT TITLE.*—*This Act may be cited as the*  
5 *“Taxpayer Assistance and Simplification Act of 2008”.*

6        (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*  
7 *expressly provided, whenever in this Act an amendment or*  
8 *repeal is expressed in terms of an amendment to, or repeal*  
9 *of, a section or other provision, the reference shall be consid-*  
10 *ered to be made to a section or other provision of the Inter-*  
11 *nal Revenue Code of 1986.*

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

*Sec. 1. Short title, etc.*

*Sec. 2. Modification of penalty on understatement of taxpayer’s liability by tax  
return preparer.*

*Sec. 3. Removal of cellular telephones (or similar telecommunications equipment)  
from listed property.*

*Sec. 4. Delay of application of withholding requirement on certain governmental  
payments for goods and services.*

*Sec. 5. Elderly and disabled individuals receiving in-home care under certain  
government programs not subject to employment tax provisions.*

*Sec. 6. Referrals to low income taxpayer clinics permitted.*

*Sec. 7. Programs for the benefit of low-income taxpayers.*

*Sec. 8. EITC outreach.*

*Sec. 9. Prohibition on IRS debt indicators for predatory refund anticipation  
loans.*

*Sec. 10. Study on delivery of tax refunds.*

*Sec. 11. Extension of time for return of property for wrongful levy.*

*Sec. 12. Individuals held harmless on wrongful levy, etc., on individual retire-  
ment plan.*

*Sec. 13. Taxpayer notification of suspected identity theft.*

*Sec. 14. Repeal of authority to enter into private debt collection contracts.*

*Sec. 15. Clarification of IRS unclaimed refund authority.*

*Sec. 16. Prohibition on misuse of Department of the Treasury names and sym-  
bols.*

*Sec. 17. Substantiation of amounts paid or distributed out of health savings ac-  
count.*

*Sec. 18. Certain domestically controlled foreign persons performing services under contract with United States Government treated as American employers.*

*Sec. 19. Time for payment of corporate estimated tax.*

1 **SEC. 2. MODIFICATION OF PENALTY ON UNDERSTATEMENT**  
 2 **OF TAXPAYER'S LIABILITY BY TAX RETURN**  
 3 **PREPARER.**

4 *(a) IN GENERAL.—Subsection (a) of section 6694 (re-*  
 5 *lating to understatement due to unreasonable positions) is*  
 6 *amended to read as follows:*

7 *“(a) UNDERSTATEMENT DUE TO UNREASONABLE PO-*  
 8 *SITIONS.—*

9 *“(1) IN GENERAL.—If a tax return preparer—*

10 *“(A) prepares any return or claim of refund*  
 11 *with respect to which any part of an understate-*  
 12 *ment of liability is due to a position described*  
 13 *in paragraph (2), and*

14 *“(B) knew (or reasonably should have*  
 15 *known) of the position,*

16 *such tax return preparer shall pay a penalty with re-*  
 17 *spect to each such return or claim in an amount*  
 18 *equal to the greater of \$1,000 or 50 percent of the in-*  
 19 *come derived (or to be derived) by the tax return pre-*  
 20 *parer with respect to the return or claim.*

21 *“(2) UNREASONABLE POSITION.—*

22 *“(A) IN GENERAL.—Except as otherwise*  
 23 *provided in this paragraph, a position is de-*

1           *scribed in this paragraph unless there is or was*  
2           *substantial authority for the position.*

3           “(B) *DISCLOSED POSITIONS.*—*If the posi-*  
4           *tion was disclosed as provided in section*  
5           *6662(d)(2)(B)(ii)(I) and is not a position to*  
6           *which subparagraph (C) applies, the position is*  
7           *described in this paragraph unless there is a rea-*  
8           *sonable basis for the position.*

9           “(C) *TAX SHELTERS AND REPORTABLE*  
10           *TRANSACTIONS.*—*If the position is with respect*  
11           *to a tax shelter (as defined in section*  
12           *6662(d)(2)(C)(ii)) or a reportable transaction to*  
13           *which section 6662A applies, the position is de-*  
14           *scribed in this paragraph unless it is reasonable*  
15           *to believe that the position would more likely*  
16           *than not be sustained on its merits.*

17           “(3) *REASONABLE CAUSE EXCEPTION.*—*No pen-*  
18           *alty shall be imposed under this subsection if it is*  
19           *shown that there is reasonable cause for the under-*  
20           *statement and the tax return preparer acted in good*  
21           *faith.”.*

22           “(b) *EFFECTIVE DATE.*—*The amendment made by this*  
23           *section shall apply—*

24                     (1) *in the case of a position described in sub-*  
25                     *paragraph (A) or (B) of section 6694(a)(2) of the In-*

1        *ternal Revenue Code of 1986 (as amended by this sec-*  
2        *tion), to returns prepared after May 25, 2007, and*

3                *(2) in the case of a position described in sub-*  
4        *paragraph (C) of such section (as amended by this*  
5        *section), to returns prepared for taxable years ending*  
6        *after the date of the enactment of this Act.*

7        **SEC. 3. REMOVAL OF CELLULAR TELEPHONES (OR SIMILAR**  
8                        **TELECOMMUNICATIONS EQUIPMENT) FROM**  
9                        **LISTED PROPERTY.**

10        *(a) IN GENERAL.—Subparagraph (A) of section*  
11        *280F(d)(4) (defining listed property) is amended by insert-*  
12        *ing “and” at the end of clause (iv), by striking clause (v),*  
13        *and by redesignating clause (vi) as clause (v).*

14        *(b) EFFECTIVE DATE.—The amendment made by sub-*  
15        *section (a) shall apply to taxable years beginning after De-*  
16        *cember 31, 2008.*

17        **SEC. 4. DELAY OF APPLICATION OF WITHHOLDING RE-**  
18                        **QUIREMENT ON CERTAIN GOVERNMENTAL**  
19                        **PAYMENTS FOR GOODS AND SERVICES.**

20        *(a) IN GENERAL.—Subsection (b) of section 511 of the*  
21        *Tax Increase Prevention and Reconciliation Act of 2005 is*  
22        *amended by striking “December 31, 2010” and inserting*  
23        *“December 31, 2011”.*

24        *(b) REPORT TO CONGRESS.—Not later than 6 months*  
25        *after the date of the enactment of this Act, the Secretary*

1 *of the Treasury shall submit to the Committee on Ways and*  
2 *Means of the House of Representatives and the Committee*  
3 *on Finance of the Senate a report with respect to the with-*  
4 *holding requirements of section 3402(t) of the Internal Rev-*  
5 *enue Code of 1986, including a detailed analysis of—*

6           (1) *the problems, if any, which are anticipated*  
7 *in administering and complying with such require-*  
8 *ments,*

9           (2) *the burdens, if any, that such requirements*  
10 *will place on governments and businesses (taking into*  
11 *account such mechanisms as may be necessary to ad-*  
12 *minister such requirements), and*

13           (3) *the application of such requirements to small*  
14 *expenditures for services and goods by governments.*

15 **SEC. 5. ELDERLY AND DISABLED INDIVIDUALS RECEIVING**  
16 **IN-HOME CARE UNDER CERTAIN GOVERN-**  
17 **MENT PROGRAMS NOT SUBJECT TO EMPLOY-**  
18 **MENT TAX PROVISIONS.**

19           (a) *IN GENERAL.—Chapter 25 (relating to general*  
20 *provisions relating to employment taxes) is amended by*  
21 *adding at the end the following new section:*

1 **“SEC. 3511. ELDERLY AND DISABLED INDIVIDUALS RECEIV-**  
2 **ING IN-HOME CARE UNDER CERTAIN GOV-**  
3 **ERNMENT PROGRAMS.**

4 *“(a) IN GENERAL.—In the case of amounts paid under*  
5 *a home care service program to a home care service provider*  
6 *by the fiscal administrator of such program—*

7 *“(1) the home care service recipient shall not be*  
8 *liable for the payment of any taxes imposed under*  
9 *this subtitle with respect to amounts paid for the pro-*  
10 *vision of services under such program, and*

11 *“(2) the fiscal administrator shall be so liable.*

12 *“(b) DEFINITIONS.—For purposes of this section—*

13 *“(1) HOME CARE SERVICE PROGRAM.—The term*  
14 *‘home care service program’ means a State or local*  
15 *government program—*

16 *“(A) any portion of which is funded with*  
17 *Federal funds, and*

18 *“(B) under which domestic services are pro-*  
19 *vided to elderly or disabled individuals in their*  
20 *homes.*

21 *Such term shall not include any program to the ex-*  
22 *tent home care service recipients make payments to*  
23 *the home care service providers for such in-home do-*  
24 *mestic services.*

25 *“(2) HOME CARE SERVICE PROVIDER.—The term*  
26 *‘home care service provider’ means any individual*

1       *who provides domestic services to a home care service*  
2       *recipient under a home care service program.*

3               “(3) *HOME CARE SERVICE RECIPIENT.*—*The*  
4       *term ‘home care service recipient’ means any indi-*  
5       *vidual receiving domestic services under a home care*  
6       *service program.*

7               “(4) *FISCAL ADMINISTRATOR.*—*The term ‘fiscal*  
8       *administrator’ means any person or governmental en-*  
9       *tity who pays amounts under a home care service*  
10       *program to home care service providers for the provi-*  
11       *sion of domestic services under such program.*

12              “(c) *RETURNS BY FISCAL ADMINISTRATOR.*—*For pur-*  
13       *poses of this section—*

14                   “(1) *IN GENERAL.*—*Returns relating to taxes im-*  
15       *posed or amounts required to be withheld under this*  
16       *subtitle shall be made under the identifying number*  
17       *of the fiscal administrator.*

18                   “(2) *IDENTIFICATION OF SERVICE RECIPIENT.*—  
19       *The fiscal administrator shall, to the extent required*  
20       *under regulations prescribed by the Secretary, make*  
21       *a return setting forth—*

22                           “(A) *the name, address, and identifying*  
23                           *number of each home care service recipient for*  
24                           *whom amounts are paid by such fiscal adminis-*



1           *trator under the home care services program,*  
2           *and*

3                   “(B) *such other information as the Sec-*  
4           *retary may require.*”

5           “(d) *REGULATIONS.—The Secretary may prescribe*  
6 *such regulations or other guidance as may be necessary to*  
7 *carry out the purposes of this section, including requiring*  
8 *deposits of any tax imposed under this subtitle.*”

9           (b) *SERVICE RECIPIENT IDENTIFICATION RETURN*  
10 *TREATED AS INFORMATION RETURN.—Paragraph (3) of*  
11 *section 6724(d) is amended by striking “and” at the end*  
12 *of subparagraph (C)(ii), by striking the period at the end*  
13 *of subparagraph (D)(ii) and inserting “, and”, and by add-*  
14 *ing at the end the following new subparagraph:*

15                   “(E) *any requirement under section*  
16                   *3511(c)(2).*”

17           (c) *CLERICAL AMENDMENT.—The table of sections for*  
18 *chapter 25 is amended by adding at the end the following*  
19 *new item:*

*“Sec. 3511. Elderly and disabled individuals receiving in-home care under cer-*  
*tain government programs.”.*

20           (d) *EFFECTIVE DATE.—The amendments made by this*  
21 *section shall apply to amounts paid after December 31,*  
22 *2008.*

1 **SEC. 6. REFERRALS TO LOW INCOME TAXPAYER CLINICS**  
2 **PERMITTED.**

3 (a) *IN GENERAL.*—Subsection (c) of section 7526 of  
4 the Internal Revenue Code of 1986 is amended by adding  
5 at the end the following new paragraph:

6 “(6) *TREASURY EMPLOYEES PERMITTED TO*  
7 *REFER TAXPAYERS TO QUALIFIED LOW-INCOME TAX-*  
8 *PAYER CLINICS.*—Notwithstanding any other provi-  
9 sion of law, officers and employees of the Department  
10 of the Treasury may refer taxpayers for advice and  
11 assistance to qualified low-income taxpayer clinics re-  
12 ceiving funding under this section.”.

13 (b) *EFFECTIVE DATE.*—The amendment made by this  
14 section shall apply to referrals made after the date of the  
15 enactment of this Act.

16 **SEC. 7. PROGRAMS FOR THE BENEFIT OF LOW-INCOME TAX-**  
17 **PAYERS.**

18 (a) *VOLUNTEER INCOME TAX ASSISTANCE PRO-*  
19 *GRAMS.*—Chapter 77 (relating to miscellaneous provisions)  
20 is amended by inserting after section 7526 the following  
21 new section:

22 **“SEC. 7526A. VOLUNTEER INCOME TAX ASSISTANCE PRO-**  
23 **GRAMS.**

24 “(a) *IN GENERAL.*—The Secretary may, subject to the  
25 availability of appropriated funds, make grants to provide

1 *matching funds for the development, expansion, or continu-*  
2 *ation of volunteer income tax assistance programs.*

3 “(b) *VOLUNTEER INCOME TAX ASSISTANCE PRO-*  
4 *GRAM.—For purposes of this section, the term ‘volunteer in-*  
5 *come tax assistance program’ means a program—*

6 “(1) *which does not charge taxpayers for its re-*  
7 *turn preparation services,*

8 “(2) *which operates programs to assist low and*  
9 *moderate-income (as determined by the Secretary)*  
10 *taxpayers in preparing and filing their Federal in-*  
11 *come tax returns, and*

12 “(3) *in which all of the volunteers who assist in*  
13 *the preparation of Federal income tax returns meet*  
14 *the requirements prescribed by the Secretary.*

15 “(c) *SPECIAL RULES AND LIMITATIONS.—*

16 “(1) *AGGREGATE LIMITATION.—Unless otherwise*  
17 *provided by specific appropriation, the Secretary*  
18 *shall not allocate more than \$10,000,000 per year (ex-*  
19 *clusive of costs of administering the program) to*  
20 *grants under this section.*

21 “(2) *OTHER APPLICABLE RULES.—Rules similar*  
22 *to the rules under paragraphs (2) through (6) of sec-*  
23 *tion 7526(c) shall apply with respect to the awarding*  
24 *of grants to volunteer income tax assistance pro-*  
25 *grams.”.*

1       (b) *INCREASE IN AUTHORIZED GRANTS FOR LOW-IN-*  
 2 *COME TAXPAYER CLINICS.*—Paragraph (1) of section  
 3 7526(c) (relating to aggregate limitation) is amended by  
 4 striking “\$6,000,000” and inserting “\$10,000,000”.

5       (c) *CLERICAL AMENDMENTS.*—

6           (1) Section 7526(c)(5) is amended by inserting  
 7 “qualified” before “low-income”.

8           (2) The table of sections for chapter 77 is amend-  
 9 ed by inserting after the item relating to section 7526  
 10 the following new item:

“Sec. 7526A. Volunteer income tax assistance programs.”.

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

14 **SEC. 8. EITC OUTREACH.**

15       (a) *IN GENERAL.*—Section 32 (relating to earned in-  
 16 come) is amended by adding at the end the following new  
 17 subsection:

18       “(n) *NOTIFICATION OF POTENTIAL ELIGIBILITY FOR*  
 19 *CREDIT AND REFUND.*—

20           “(1) *IN GENERAL.*—To the extent possible and on  
 21 an annual basis, the Secretary shall provide to each  
 22 taxpayer who—

23                   “(A) for any preceding taxable year for  
 24 which credit or refund is not precluded by sec-  
 25 tion 6511, and

1           “(B) did not claim the credit under sub-  
2           section (a) but may be allowed such credit for  
3           any such taxable year based on return or return  
4           information (as defined in section 6103(b))  
5           available to the Secretary,  
6           notice that such taxpayer may be eligible to claim  
7           such credit and a refund for such taxable year.

8           “(2) NOTICE.—Notice provided under paragraph  
9           (1) shall be in writing and sent to the last known ad-  
10          dress of the taxpayer.”.

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

14          **SEC. 9. PROHIBITION ON IRS DEBT INDICATORS FOR PRED-**  
15   **ATORY REFUND ANTICIPATION LOANS.**

16          (a) IN GENERAL.—Subsection (f) of section 6011 (re-  
17          lating to promotion of electronic filing) is amended by add-  
18          ing at the end the following new paragraph:

19   “(3) PROHIBITION ON IRS DEBT INDICATORS FOR  
20          PREDATORY REFUND ANTICIPATION LOANS.—

21   “(A) IN GENERAL.—In carrying out any  
22          program under this subsection, the Secretary  
23          shall not provide a debt indicator to any person  
24          with respect to any refund anticipation loan if  
25          the Secretary determines that the business prac-

1           *tices of such person involve refund anticipation*  
2           *loans and related charges and fees that are pred-*  
3           *atory.*

4           “(B) *REFUND ANTICIPATION LOAN.*—*For*  
5           *purposes of this paragraph, the term ‘refund an-*  
6           *ticipation loan’ means a loan of money or of any*  
7           *other thing of value to a taxpayer secured by the*  
8           *taxpayer’s anticipated receipt of a Federal tax*  
9           *refund.*

10           “(C) *IRS DEBT INDICATOR.*—*For purposes*  
11           *of this paragraph, the term ‘debt indicator’*  
12           *means a notification provided through a tax re-*  
13           *turn’s acknowledgment file that a refund will be*  
14           *offset to repay debts for delinquent Federal or*  
15           *State taxes, student loans, child support, or other*  
16           *Federal agency debt.”.*

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

20   **SEC. 10. STUDY ON DELIVERY OF TAX REFUNDS.**

21           (a) *IN GENERAL.*—*The Secretary of the Treasury, in*  
22           *consultation with the National Taxpayer Advocate, shall*  
23           *conduct a study on the feasibility of delivering tax refunds*  
24           *on debit cards, prepaid cards, and other electronic means*

1 *to assist individuals that do not have access to financial*  
2 *accounts or institutions.*

3 (b) *REPORT.*—*Not later than 1 year after the date of*  
4 *the enactment of this Act, the Secretary of the Treasury*  
5 *shall submit a report to Congress containing the results of*  
6 *the study conducted under subsection (a).*

7 **SEC. 11. EXTENSION OF TIME FOR RETURN OF PROPERTY**  
8 **FOR WRONGFUL LEVY.**

9 (a) *EXTENSION OF TIME FOR RETURN OF PROPERTY*  
10 *SUBJECT TO LEVY.*—*Subsection (b) of section 6343 (relat-*  
11 *ing to return of property) is amended by striking “9*  
12 *months” and inserting “2 years”.*

13 (b) *PERIOD OF LIMITATION ON SUITS.*—*Subsection (c)*  
14 *of section 6532 (relating to suits by persons other than tax-*  
15 *payers) is amended—*

16 (1) *in paragraph (1) by striking “9 months”*  
17 *and inserting “2 years”, and*

18 (2) *in paragraph (2) by striking “9-month” and*  
19 *inserting “2-year”.*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*  
21 *section shall apply to—*

22 (1) *levies made after the date of the enactment*  
23 *of this Act, and*

24 (2) *levies made on or before such date if the 9-*  
25 *month period has not expired under section 6343(b)*

1       of the Internal Revenue Code of 1986 (without regard  
2       to this section) as of such date.

3 **SEC. 12. INDIVIDUALS HELD HARMLESS ON WRONGFUL**  
4               **LEVY, ETC., ON INDIVIDUAL RETIREMENT**  
5               **PLAN.**

6       (a) *IN GENERAL.*—Section 6343 (relating to authority  
7       to release levy and return property) is amended by adding  
8       at the end the following new subsection:

9       “(f) *INDIVIDUALS HELD HARMLESS ON WRONGFUL*  
10 *LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.*—

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

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

17                       “(B) interest paid under subsection (c) on  
18                       such amount of money,

19       may be deposited into such individual retirement  
20       plan or any other individual retirement plan (other  
21       than an endowment contract) to which a rollover  
22       from the plan levied upon is permitted. An amount  
23       may not be deposited into a Roth IRA under the pre-  
24       ceding sentence unless the individual retirement plan  
25       levied upon was a Roth IRA at the time of such levy.



1           “(2) *TREATMENT AS ROLLOVER.*—*If amounts are*  
2           *deposited into an individual retirement plan under*  
3           *paragraph (1) not later than the 60th day after the*  
4           *date on which the individual receives the amounts*  
5           *under paragraph (1)—*

6                     “(A) *such deposit shall be treated as a roll-*  
7                     *over described in section 408(d)(3)(A)(i),*

8                     “(B) *to the extent the deposit includes inter-*  
9                     *est paid under subsection (c), such interest shall*  
10                    *not be includible in gross income, and*

11                    “(C) *such deposit shall not be taken into ac-*  
12                    *count under section 408(d)(3)(B).*

13           *For purposes of subparagraph (B), an amount shall*  
14           *be treated as interest only to the extent that the*  
15           *amount deposited exceeds the amount of the levy.*

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

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

6           (b) *EFFECTIVE DATE.*—The amendment made by this  
7           section shall apply to amounts paid under subsections (b),  
8           (c), and (d)(2)(A) of section 6343 of the Internal Revenue  
9           Code of 1986 after the date of the enactment of this Act.

10 **SEC. 13. TAXPAYER NOTIFICATION OF SUSPECTED IDEN-**  
11 **TITY THEFT.**

12           (a) *IN GENERAL.*—Chapter 77 (relating to miscella-  
13           neous provisions) is amended by adding at the end the fol-  
14           lowing new section:

15 **“SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY**  
16 **THEFT.**

17           *“If, in the course of an investigation under the inter-*  
18           *nal revenue laws, the Secretary determines that there was*  
19           *or may have been an unauthorized use of the identity of*  
20           *the taxpayer or a dependent of the taxpayer, the Secretary*  
21           *shall, to the extent permitted by law—*

22                   *“(1) as soon as practicable and without jeopard-*  
23                   *izing such investigation, notify the taxpayer of such*  
24                   *determination, and*

1           “(2) if any person is criminally charged by in-  
2           dictment or information with respect to such unau-  
3           thorized use, notify such taxpayer as soon as prac-  
4           ticable of such charge.”.

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

          “Sec. 7529. Notification of suspected identity theft.”.

8           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
9 *section shall apply to determinations made after the date*  
10 *of the enactment of this Act.*

11 **SEC. 14. REPEAL OF AUTHORITY TO ENTER INTO PRIVATE**  
12 **DEBT COLLECTION CONTRACTS.**

13           (a) *IN GENERAL.*—*Subchapter A of chapter 64 is*  
14 *amended by striking section 6306.*

15           (b) *CONFORMING AMENDMENTS.*—

16                 (1) *Subchapter B of chapter 76 is amended by*  
17 *striking section 7433A.*

18                 (2) *Section 7811 is amended by striking sub-*  
19 *section (g).*

20                 (3) *Section 1203 of the Internal Revenue Service*  
21 *Restructuring Act of 1998 is amended by striking*  
22 *subsection (e).*

23                 (4) *The table of sections for subchapter A of*  
24 *chapter 64 is amended by striking the item relating*  
25 *to section 6306.*

1           (5) *The table of sections for subchapter B of*  
2 *chapter 76 is amended by striking the item relating*  
3 *to section 7433A.*

4           (c) *EFFECTIVE DATE.—*

5           (1) *IN GENERAL.—Except as otherwise provided*  
6 *in this subsection, the amendments made by this sec-*  
7 *tion shall take effect on the date of the enactment of*  
8 *this Act.*

9           (2) *EXCEPTION FOR EXISTING CONTRACTS,*  
10 *ETC.—The amendments made by this section shall not*  
11 *apply to any contract which was entered into before*  
12 *March 1, 2008, and is not renewed or extended on or*  
13 *after such date.*

14           (3) *UNAUTHORIZED CONTRACTS AND EXTEN-*  
15 *SIONS TREATED AS VOID.—Any qualified tax collec-*  
16 *tion contract (as defined in section 6306 of the Inter-*  
17 *nal Revenue Code of 1986, as in effect before its re-*  
18 *peal) which is entered into on or after March 1, 2008,*  
19 *and any extension or renewal on or after such date*  
20 *of any qualified tax collection contract (as so de-*  
21 *finied), shall be void.*

1 **SEC. 15. CLARIFICATION OF IRS UNCLAIMED REFUND AU-**  
2 **THORITY.**

3 *Paragraph (1) of section 6103(m) (relating to tax re-*  
4 *funds) is amended by inserting “, and through any other*  
5 *means of mass communication,” after “media”.*

6 **SEC. 16. PROHIBITION ON MISUSE OF DEPARTMENT OF THE**  
7 **TREASURY NAMES AND SYMBOLS.**

8 *(a) IN GENERAL.—Subsection (a) of section 333 of title*  
9 *31, United States Code, is amended by inserting “Internet*  
10 *domain address,” after “solicitation,” both places it ap-*  
11 *pears.*

12 *(b) PENALTY FOR MISUSE BY ELECTRONIC MEANS.—*  
13 *Subsections (c)(2) and (d)(1) of section 333 of such Code*  
14 *are each amended by inserting “or any other mass commu-*  
15 *nications by electronic means,” after “telecast,”.*

16 *(c) EFFECTIVE DATE.—The amendments made by this*  
17 *section shall apply with respect to violations occurring after*  
18 *the date of the enactment of this Act.*

19 **SEC. 17. SUBSTANTIATION OF AMOUNTS PAID OR DISTRIB-**  
20 **UTED OUT OF HEALTH SAVINGS ACCOUNT.**

21 *(a) IN GENERAL.—Paragraph (1) of section 223(f) (re-*  
22 *lating to amounts used for qualified medical expenses) is*  
23 *amended by inserting “(and, in the case of amounts paid*  
24 *or distributed after December 31, 2010, substantiated in a*  
25 *manner similar to the substantiation required for flexible*  
26 *spending arrangements)” after “account beneficiary”.*

1       **(b) REPORTS.**—*Subsection (h) of section 223 (relating*  
2 *to reports) is amended—*

3           *(1) by redesignating paragraphs (1) and (2) as*  
4 *subparagraphs (A) and (B), respectively,*

5           *(2) by moving the text of subparagraphs (A) and*  
6 *(B) (as so redesignated) and the last sentence 2 ems*  
7 *to the right,*

8           *(3) by striking “(h) REPORTS.—The Secretary*  
9 *may require—” and inserting the following:*

10       **“(h) REPORTS.—**

11           **“(1) IN GENERAL.—***The Secretary may re-*  
12 *quire—”, and*

13           *(4) by adding at the end the following new para-*  
14 *graph:*

15           **“(2) RELATING TO SUBSTANTIATION.—***Not later*  
16 *than January 15 of each calendar year after 2011,*  
17 *the trustee of a health savings account shall make a*  
18 *report regarding such account to the Secretary and*  
19 *the account beneficiary setting forth—*

20           **“(A) the name, address, and identifying**  
21 **number of the account beneficiary, and**

22           **“(B) the amount paid or distributed out of**  
23 **such account for the preceding calendar year not**  
24 **substantiated in accordance with subsection**  
25 **(f)(1).”.**

1           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply with respect to amounts paid or distrib-*  
 3 *uted out of health savings accounts after December 31, 2010.*

4 **SEC. 18. CERTAIN DOMESTICALLY CONTROLLED FOREIGN**  
 5 **PERSONS PERFORMING SERVICES UNDER**  
 6 **CONTRACT WITH UNITED STATES GOVERN-**  
 7 **MENT TREATED AS AMERICAN EMPLOYERS.**

8           (a) *FICA TAXES.*—*Section 3121 (relating to defini-*  
 9 *tions) is amended by adding at the end the following new*  
 10 *subsection:*

11           “(z) *TREATMENT OF CERTAIN FOREIGN PERSONS AS*  
 12 *AMERICAN EMPLOYERS.*—

13                   “(1) *IN GENERAL.*—*If any employee of a foreign*  
 14 *person is performing services in connection with a*  
 15 *contract between the United States Government (or*  
 16 *any instrumentality thereof) and any member of any*  
 17 *domestically controlled group of entities which in-*  
 18 *cludes such foreign person, such foreign person shall*  
 19 *be treated for purposes of this chapter as an Amer-*  
 20 *ican employer with respect to such services performed*  
 21 *by such employee.*

22                   “(2) *DOMESTICALLY CONTROLLED GROUP OF EN-*  
 23 *TITIES.*—*For purposes of this subsection—*

24                           “(A) *IN GENERAL.*—*The term ‘domestically*  
 25 *controlled group of entities’ means a controlled*

1           *group of entities the common parent of which is*  
2           *a domestic corporation.*

3           “(B) *CONTROLLED GROUP OF ENTITIES.*—  
4           *The term ‘controlled group of entities’ means a*  
5           *controlled group of corporations as defined in*  
6           *section 1563(a)(1), except that—*

7                   “(i) *‘more than 50 percent’ shall be*  
8                   *substituted for ‘at least 80 percent’ each*  
9                   *place it appears therein, and*

10                   “(ii) *the determination shall be made*  
11                   *without regard to subsections (a)(4) and*  
12                   *(b)(2) of section 1563.*

13           *A partnership or any other entity (other than a*  
14           *corporation) shall be treated as a member of a*  
15           *controlled group of entities if such entity is con-*  
16           *trolled (within the meaning of section 954(d)(3))*  
17           *by members of such group (including any entity*  
18           *treated as a member of such group by reason of*  
19           *this sentence).*

20           “(3) *LIABILITY OF COMMON PARENT.*—*In the*  
21           *case of a foreign person who is a member of any do-*  
22           *mestically controlled group of entities, the common*  
23           *parent of such group shall be jointly and severally*  
24           *liable for any tax under this chapter for which such*  
25           *foreign person is liable by reason of this subsection,*



1       and for any penalty imposed on such person by this  
2       title with respect to any failure to pay such tax or  
3       to file any return or statement with respect to such  
4       tax or wages subject to such tax. No deduction shall  
5       be allowed under this title for any liability imposed  
6       by the preceding sentence.

7               “(4) *COORDINATION.*—Paragraph (1) shall not  
8       apply to any services which are covered by an agree-  
9       ment under subsection (l).

10              “(5) *CROSS REFERENCE.*—For relief from taxes  
11       in cases covered by certain international agreements,  
12       see sections 3101(c) and 3111(c).”.

13       (b) *SOCIAL SECURITY BENEFITS.*—Subsection (e) of  
14       section 210 of the Social Security Act (42 U.S.C. 410(e))  
15       is amended—

16              (1) by striking “(e) The term” and inserting  
17       “(e)(1) The term”,

18              (2) by redesignating clauses (1) through (6) as  
19       clauses (A) through (F), respectively, and

20              (3) by adding at the end the following new para-  
21       graph:

22              “(2)(A) If any employee of a foreign person is per-  
23       forming services in connection with a contract between the  
24       United States Government (or any instrumentality thereof)  
25       and any member of any domestically controlled group of

1 *entities which includes such foreign person, such foreign*  
2 *person shall be treated as an American employer with re-*  
3 *spect to such services performed by such employee.*

4 “(B) For purposes of this paragraph—

5 “(i) The term ‘domestically controlled group of  
6 entities’ means a controlled group of entities the com-  
7 mon parent of which is a domestic corporation.

8 “(ii) The term ‘controlled group of entities’  
9 means a controlled group of corporations as defined  
10 in section 1563(a)(1) of the Internal Revenue Code of  
11 1986, except that—

12 “(I) ‘more than 50 percent’ shall be sub-  
13 stituted for ‘at least 80 percent’ each place it ap-  
14 pears therein, and

15 “(II) the determination shall be made with-  
16 out regard to subsections (a)(4) and (b)(2) of sec-  
17 tion 1563 of such Code.

18 *A partnership or any other entity (other than a cor-*  
19 *poration) shall be treated as a member of a controlled*  
20 *group of entities if such entity is controlled (within*  
21 *the meaning of section 954(d)(3) of such Code) by*  
22 *members of such group (including any entity treated*  
23 *as a member of such group by reason of this sen-*  
24 *tence).”.*

1           (c) *EFFECTIVE DATE.*—*The amendment made by this*  
2 *section shall apply to services performed after the date of*  
3 *the enactment of this Act.*

4 **SEC. 19. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
5 **TAX.**

6           *The percentage under subparagraph (C) of section*  
7 *401(1) of the Tax Increase Prevention and Reconciliation*  
8 *Act of 2005 in effect on the date of the enactment of this*  
9 *Act is increased by 0.25 percentage points.*

Union Calendar No. 362

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5719**

[Report No. 110-584]

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## **A BILL**

To amend the Internal Revenue Code of 1986 to conform return preparer penalty standards, delay implementation of withholding taxes on government contractors, enhance taxpayer protections, assist low-income taxpayers, and for other purposes.

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APRIL 14, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed