

111TH CONGRESS
1ST SESSION

S. 2917

To amend the Internal Revenue Code of 1986 to modify the penalty for failure to disclose certain reportable transactions and the penalty for submitting a bad check to the Internal Revenue Service, to modify certain rules relating to Federal vendors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2009

Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. NELSON of Nebraska, Ms. LANDRIEU, Mr. BOND, Mr. LUGAR, Mr. BROWNBACK, Mr. ROBERTS, Mr. HATCH, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to modify the penalty for failure to disclose certain reportable transactions and the penalty for submitting a bad check to the Internal Revenue Service, to modify certain rules relating to Federal vendors, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Pen-
5 alty Fairness Act of 2009”.

1 **SEC. 2. LIMITATION ON PENALTY FOR FAILURE TO DIS-**
 2 **CLOSE REPORTABLE TRANSACTIONS BASED**
 3 **ON RESULTING TAX BENEFITS.**

4 (a) IN GENERAL.—Subsection (b) of section 6707A
 5 of the Internal Revenue Code of 1986 is amended to read
 6 as follows:

7 “(b) AMOUNT OF PENALTY.—

8 “(1) IN GENERAL.—Except as otherwise pro-
 9 vided in this subsection, the amount of the penalty
 10 under subsection (a) with respect to any reportable
 11 transaction shall be 75 percent of the decrease in
 12 tax shown on the return as a result of such trans-
 13 action (or which would have resulted from such
 14 transaction if such transaction were respected for
 15 Federal tax purposes).

16 “(2) MAXIMUM PENALTY.—The amount of the
 17 penalty under subsection (a) with respect to any re-
 18 reportable transaction shall not exceed—

19 “(A) in the case of a listed transaction,
 20 \$200,000 (\$100,000 in the case of a natural
 21 person), or

22 “(B) in the case of any other reportable
 23 transaction, \$50,000 (\$10,000 in the case of a
 24 natural person).

25 “(3) MINIMUM PENALTY.—The amount of the
 26 penalty under subsection (a) with respect to any

1 transaction shall not be less than \$10,000 (\$5,000
2 in the case of a natural person).”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to penalties assessed after Decem-
5 ber 31, 2006.

6 **SEC. 3. REPORT ON TAX SHELTER PENALTIES AND CER-**
7 **TAIN OTHER ENFORCEMENT ACTIONS.**

8 (a) IN GENERAL.—The Commissioner of Internal
9 Revenue, in consultation with the Secretary of the Treas-
10 ury, shall submit to the Committee on Ways and Means
11 of the House of Representatives and the Committee on
12 Finance of the Senate an annual report on the penalties
13 assessed by the Internal Revenue Service during the pre-
14 ceding year under each of the following provisions of the
15 Internal Revenue Code of 1986:

16 (1) Section 6662A (relating to accuracy-related
17 penalty on understatements with respect to report-
18 able transactions).

19 (2) Section 6700(a) (relating to promoting abu-
20 sive tax shelters).

21 (3) Section 6707 (relating to failure to furnish
22 information regarding reportable transactions).

23 (4) Section 6707A (relating to failure to include
24 reportable transaction information with return).

1 (5) Section 6708 (relating to failure to main-
2 tain lists of advisees with respect to reportable
3 transactions).

4 (b) ADDITIONAL INFORMATION.—The report re-
5 quired under subsection (a) shall also include information
6 on the following with respect to each year:

7 (1) Any action taken under section 330(b) of
8 title 31, United States Code, with respect to any re-
9 portable transaction (as defined in section 6707A(c)
10 of the Internal Revenue Code of 1986).

11 (2) Any extension of the time for assessment of
12 tax enforced, or assessment of any amount under
13 such an extension, under paragraph (10) of section
14 6501(c) of the Internal Revenue Code of 1986.

15 (c) DATE OF REPORT.—The first report required
16 under subsection (a) shall be submitted not later than
17 June 1, 2010.

18 **SEC. 4. APPLICATION OF BAD CHECKS PENALTY TO ELEC-**
19 **TRONIC PAYMENTS.**

20 (a) IN GENERAL.—Section 6657 of the Internal Rev-
21 enue Code of 1986 is amended—

22 (1) by striking “If any check or money order in
23 payment of any amount” and inserting “If any in-
24 strument in payment, by any commercially accept-
25 able means, of any amount”, and

1 (2) by striking “such check” each place it ap-
2 pears and inserting “such instrument”.

3 (b) EFFECTIVE DATES.—The amendments made by
4 this section shall apply to instruments tendered after the
5 date of the enactment of this Act.

6 **SEC. 5. APPLICATION OF LEVY TO PAYMENTS TO FEDERAL**
7 **VENDORS RELATING TO PROPERTY.**

8 (a) IN GENERAL.—Section 6331(h)(3) of the Inter-
9 nal Revenue Code of 1986 is amended by striking “goods
10 or services” and inserting “property, goods, or services”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to levies approved after the date
13 of the enactment of this Act.

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