

114TH CONGRESS
2D SESSION

H. R. 5523

To amend title 31, United States Code, to prohibit the Internal Revenue Service from carrying out seizures relating to a structuring transaction unless the property to be seized derived from an illegal source or the funds were structured for the purpose of concealing the violation of another criminal law or regulation, to require notice and a post-seizure hearing for such seizures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2016

Mr. ROSKAM (for himself and Mr. CROWLEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 31, United States Code, to prohibit the Internal Revenue Service from carrying out seizures relating to a structuring transaction unless the property to be seized derived from an illegal source or the funds were structured for the purpose of concealing the violation of another criminal law or regulation, to require notice and a post-seizure hearing for such seizures, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Clyde-Hirsch-Sowers
3 RESPECT Act” or the “Restraining Excessive Seizure of
4 Property through the Exploitation of Civil Asset For-
5 feiture Tools Act”.

6 **SEC. 2. INTERNAL REVENUE SERVICE SEIZURE REQUIRE-**
7 **MENTS WITH RESPECT TO STRUCTURING**
8 **TRANSACTIONS.**

9 Section 5317(c)(2) of title 31, United States Code,
10 is amended—

11 (1) by striking “Any property” and inserting
12 the following:

13 “(A) IN GENERAL.—Any property”; and

14 (2) by adding at the end the following:

15 “(B) INTERNAL REVENUE SERVICE SEI-
16 ZURE REQUIREMENTS WITH RESPECT TO
17 STRUCTURING TRANSACTIONS.—

18 “(i) PROPERTY DERIVED FROM AN IL-
19 LEGAL SOURCE.—Property may only be
20 seized by the Internal Revenue Service
21 pursuant to subparagraph (A) by reason of
22 a claimed violation of section 5324 if the
23 property to be seized was derived from an
24 illegal source or the funds were structured
25 for the purpose of concealing the violation

1 of a criminal law or regulation other than
2 section 5324.

3 “(ii) NOTICE.—Not later than 30
4 days after property is seized by the Inter-
5 nal Revenue Service pursuant to subpara-
6 graph (A), the Internal Revenue Service
7 shall—

8 “(I) make a good faith effort to
9 find all persons with an ownership in-
10 terest in such property; and

11 “(II) provide each such person
12 with a notice of the person’s rights
13 under clause (iv).

14 “(iii) EXTENSION OF NOTICE UNDER
15 CERTAIN CIRCUMSTANCES.—The Internal
16 Revenue Service may apply to a court of
17 competent jurisdiction for one 30-day ex-
18 tension of the notice requirement under
19 clause (ii) if the Internal Revenue Service
20 can establish probable cause of an immi-
21 nent threat to national security or personal
22 safety necessitating such extension.

23 “(iv) POST-SEIZURE HEARING.—If a
24 person with a property interest in property
25 seized pursuant to subparagraph (A) by

1 the Internal Revenue Service requests a
2 hearing by a court of competent jurisdic-
3 tion within 30 days after the date on which
4 notice is provided under subclause (ii),
5 such property shall be returned unless the
6 court holds an adversarial hearing and
7 finds within 30 days of such request (or
8 such longer period as the court may pro-
9 vide, but only on request of an interested
10 party) that there is probable cause to be-
11 lieve that there is a violation of section
12 5324 involving such property and probable
13 cause to believe that the property to be
14 seized was derived from an illegal source or
15 the funds were structured for the purpose
16 of concealing the violation of a criminal
17 law or regulation other than section
18 5324.”.

19 **SEC. 3. EXCLUSION OF INTEREST PAID IN ACTION TO RE-**
20 **COVER PROPERTY SEIZED BY THE I.R.S.**
21 **BASED ON STRUCTURING TRANSACTION.**

22 (a) IN GENERAL.—Part III of subchapter B of chap-
23 ter 1 of the Internal Revenue Code of 1986 is amended
24 by inserting before section 140 the following new section:

1 **“SEC. 139F. INTEREST PAID IN ACTION TO RECOVER PROP-**
 2 **ERTY SEIZED BY THE I.R.S. BASED ON STRUC-**
 3 **TURING TRANSACTION.**

4 “Gross income shall not include any interest received
 5 under section 5317(c)(2) of title 31, United States Code,
 6 with respect to an action to recover property seized by the
 7 Internal Revenue Service pursuant to section
 8 5317(c)(2)(A) of such title by reason of a claimed violation
 9 of section 5324 of such title.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
 11 for part III of subchapter B of chapter 1 of such Code
 12 is amended by inserting before the item relating to section
 13 140 the following new item:

“Sec. 139F. Interest paid in action to recover property seized by the I.R.S.
 based on structuring transaction.”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to interest received on or after the
 16 date of the enactment of this Act.

○