

116TH CONGRESS
2D SESSION

S. 4878

To recover economic impact payments made to holders of nonimmigrant visas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26 (legislative day, OCTOBER 19), 2020

Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To recover economic impact payments made to holders of nonimmigrant visas, 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 “Stopping Improper
5 Payments to Foreigners Act”.

6 **SEC. 2. MODIFICATION OF ELIGIBILITY RULES FOR ECO-**
7 **NOMIC IMPACT PAYMENTS.**

8 (a) PROHIBITION ON ELIGIBILITY FOR CERTAIN
9 HOLDERS OF NONIMMIGRANT VISAS.—

10 (1) MODIFICATION.—

1 (A) IN GENERAL.—Section 6428(d) of the
2 Internal Revenue Code of 1986 is amended by
3 striking “and” at the end of paragraph (2), by
4 striking the period at the end of paragraph (3)
5 and inserting “, and”, and by adding at the end
6 the following new paragraph:

7 “(4) any resident alien individual holding a
8 nonimmigrant visa during the taxable year (other
9 than such an individual who was subsequently grant-
10 ed an immigrant visa before the last day of such
11 taxable year).”.

12 (B) SPECIAL RULE FOR ADVANCED RE-
13 FUNDS.—Section 6428(f)(2) is amended by in-
14 serting “(determined by substituting ‘the date
15 of the enactment of this section’ for ‘the last
16 day of such taxable year’ in subsection (d)(4))”
17 after “taxable year”.

18 (C) CONFORMING AMENDMENT RELATED
19 TO MEMBERS OF THE ARMED FORCES.—Section
20 6428(g)(3) is amended by inserting “and sub-
21 section (d)(4)” after “Paragraph (1)(B)”.

22 (2) ENFORCEMENT.—

23 (A) INFORMATION PROVIDED BY DEPART-
24 MENT OF HOMELAND SECURITY.—Upon the re-

1 quest of the Secretary, the Secretary of Home-
2 land Security shall identify for the Secretary—

3 (i) whether an individual was granted
4 a nonimmigrant visa for any period identi-
5 fied in such request, and

6 (ii) whether any individual described
7 in clause (i) was subsequently granted an
8 immigrant visa, and the date any such visa
9 was granted.

10 (B) LIMITATION ON USE OF INFORMA-
11 TION.—Any information provided to the Sec-
12 retary under subparagraph (A) shall only be
13 used by the Secretary to determine eligibility
14 for the credit allowed under section 6428 of the
15 Internal Revenue Code of 1986.

16 (C) SECRETARY.—For purposes of this
17 paragraph, the term “Secretary” means the
18 Secretary of the Treasury (or the Secretary’s
19 delegate).

20 (b) RECOVERY OF ECONOMIC IMPACT PAYMENTS.—

21 (1) REVIEW OF PREVIOUSLY PAID ADVANCED
22 REFUND AMOUNTS.—The Secretary of the Treasury
23 (or the Secretary’s delegate) shall—

1 (A) review payments of advanced refund
 2 amounts allowed under section 6428(f) of the
 3 Internal Revenue Code of 1986, and

4 (B) identify individuals described in section
 5 6428(d)(4) to whom such payments were made.

6 (2) DENIAL OF ISSUANCE OF VISA.—

7 (A) IN GENERAL.—Subchapter D of chap-
 8 ter 75 of the Internal Revenue Code of 1986 is
 9 amended by adding at the end the following
 10 new section:

11 **“SEC. 7346. PROHIBITION OF VISA ISSUANCE IN CASE OF**
 12 **FAILURE TO REPAY INELIGIBLE RECOVERY**
 13 **REBATE REFUNDS.**

14 “(a) IN GENERAL.—If the Secretary receives certifi-
 15 cation by the Commissioner of Internal Revenue that an
 16 individual has an unpaid ineligible recovery rebate refund,
 17 the Secretary shall transmit such certification to the Sec-
 18 retary of Homeland Security for action with respect to de-
 19 nial of a visa pursuant to section 210(a)(12)(F) of the
 20 Immigration and Nationality Act.

21 “(b) UNPAID INELIGIBLE RECOVERY REBATE RE-
 22 FUND.—For purposes of this section, the term ‘unpaid in-
 23 eligible recovery rebate refund’ means any amount treated
 24 as payment by an individual against the tax imposed by
 25 chapter 1 by reason of section 6428(f) if—

1 “(1) such individual was a resident alien indi-
2 vidual holding a nonimmigrant visa during the tax-
3 able year for which payment is treated as having
4 been made (other than an individual subsequently
5 granted an immigrant visa before the date of the en-
6 actment of such section or an individual described in
7 section 6824(g)(3)), and

8 “(2) such individual has not repaid the amount
9 of any credit or refund as a result of such treat-
10 ment.

11 “(c) REVERSAL OF CERTIFICATION.—

12 “(1) IN GENERAL.—In the case of an individual
13 with respect to whom the Commissioner makes a
14 certification under subsection (a), the Commissioner
15 shall notify the Secretary (and the Secretary shall
16 subsequently notify the Secretary of Homeland Se-
17 curity) if such certification is found to be erroneous
18 or if the unpaid ineligible recovery rebate with re-
19 spect to such certification has been repaid.

20 “(2) TIMING OF NOTICE.—The notification
21 under paragraph (1) shall be made as soon as prac-
22 ticable.

23 “(d) CONTEMPORANEOUS NOTICE TO INDIVIDUAL.—
24 The Commissioner shall contemporaneously notify an indi-
25 vidual of any certification under subsection (a), or any re-

1 versal of certification under subsection (c), with respect
2 to such individual. Such notice shall include a description
3 in simple and nontechnical terms of the right to bring a
4 civil action under subsection (e).

5 “(e) JUDICIAL REVIEW OF CERTIFICATION.—

6 “(1) IN GENERAL.—After the Commissioner no-
7 tifies an individual under subsection (d), the tax-
8 payer may bring a civil action against the United
9 States in a district court of the United States, or
10 against the Commissioner in the Tax Court, to de-
11 termine whether the certification was erroneous or
12 whether the Commissioner has failed to reverse the
13 certification. For purposes of the preceding sentence,
14 the court first acquiring jurisdiction over such an ac-
15 tion shall have sole jurisdiction.

16 “(2) DETERMINATION.—If the court determines
17 that such certification was erroneous, then the court
18 may order the Secretary to notify the Secretary of
19 Homeland Security that such certification was erro-
20 neous.

21 “(f) DELEGATION OF CERTIFICATION.—A certifi-
22 cation under subsection (a) or reversal of certification
23 under subsection (c) may only be delegated by the Com-
24 missioner of Internal Revenue to the Deputy Commis-

1 sioner for Services and Enforcement, or the Commissioner
 2 of an operating division, of the Internal Revenue Service.”.

3 (B) AUTHORITY FOR INFORMATION SHAR-
 4 ING.—

5 (i) IN GENERAL.—Section 6103(k) of
 6 the Internal Revenue Code of 1986 is
 7 amended by adding at the end the fol-
 8 lowing new paragraph:

9 “(15) DISCLOSURE OF RETURN INFORMATION
 10 TO DEPARTMENT OF HOMELAND SECURITY FOR
 11 PURPOSES OF VISA ISSUANCE PROHIBITION UNDER
 12 SECTION 7346.—

13 “(A) IN GENERAL.—The Secretary shall,
 14 upon receiving a certification described in sec-
 15 tion 7346, disclose to the Secretary of Home-
 16 land Security return information with respect to
 17 a taxpayer who has an unpaid ineligible recov-
 18 ery rebate refund described in such section.
 19 Such return information shall be limited to—

20 “(i) the taxpayer identity information
 21 with respect to such taxpayer, and

22 “(ii) the amount of such unpaid ineli-
 23 gible recovery rebate refund.

24 “(B) RESTRICTION ON DISCLOSURE.—Re-
 25 turn information disclosed under subparagraph

1 (A) may be used by officers and employees of
2 the Department of Homeland Security for the
3 purposes of, and to the extent necessary in, car-
4 rying out the requirements of section
5 210(a)(12)(F) of the Immigration and Nation-
6 ality Act.”.

7 (ii) CONFORMING AMENDMENT.—

8 Paragraph (4) of section 6103(p) of such
9 Code is amended by striking “or (11)”
10 each place it appears in subparagraph
11 (F)(ii) and in the matter preceding sub-
12 paragraph (A) and inserting “(11), or
13 (15)”.

14 (C) GROUNDS FOR INELIGIBILITY.—Sec-
15 tion 212(a)(10) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1182(a)(10)) is amended by
17 adding at the end the following:

18 “(F) UNPAID INELIGIBLE RECOVERY RE-
19 BATE REFUND.—Any alien who has been cer-
20 tified by the Commissioner of Internal Revenue
21 (or designee) as having an unpaid ineligible re-
22 covery rebate refund (as defined in section 7346
23 of the Internal Revenue Code of 1986) and has
24 failed to reimburse the United States Treasury
25 for such debt is inadmissible.”.

1 (D) CLERICAL AMENDMENT.—The table of
2 sections for subchapter D of chapter 75 of the
3 Internal Revenue Code of 1986 is amended by
4 adding at the end the following new item:

“Sec. 7346. Prohibition of visa issuance in case of failure to repay ineligible re-
covery rebate refunds.”.

5 (c) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the provisions of, and amendments made
8 by, this section shall take effect on the date of the
9 enactment of this Act.

10 (2) ELIGIBILITY.—The amendments made by
11 subsection (a)(1) shall take effect as if included in
12 section 2201 of division B of the CARES Act.

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