

117TH CONGRESS
1ST SESSION

S. 823

To amend the American Rescue Plan Act of 2021 to provide for protection of recovery rebates.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. BROWN (for himself, Mr. WYDEN, Mr. MENENDEZ, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the American Rescue Plan Act of 2021 to provide for protection of recovery rebates.

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. PROTECTION OF 2021 RECOVERY REBATES.**

4 (a) IN GENERAL.—Subsection (c) of section 9601 of
5 the American Rescue Plan Act of 2021 (Public Law 117–
6 2) is amended—

7 (1) in paragraph (2), by striking subparagraphs
8 (A) and (B) and inserting the following:

9 “(A) subject to reduction or offset pursu-
10 ant to section 3716 or 3720A of title 31,

1 United States Code, or similar authority per-
2 mitting offset,

3 “(B) subject to reduction or offset pursu-
4 ant to subsection (c), (d), (e), or (f) of section
5 6402 of the Internal Revenue Code of 1986, or

6 “(C) reduced or offset by other assessed
7 Federal taxes that would otherwise be subject
8 to levy or collection.”, and

9 (2) by adding at the end the following new
10 paragraph:

11 “(4) ASSIGNMENT OF BENEFITS.—

12 “(A) IN GENERAL.—The right of any per-
13 son to any applicable payment shall not be
14 transferable or assignable, at law or in equity,
15 and no applicable payment shall be subject to,
16 execution, levy, attachment, garnishment, or
17 other legal process, or the operation of any
18 bankruptcy or insolvency law.

19 “(B) ENCODING OF PAYMENTS.—In the
20 case of an applicable payment described in sub-
21 paragraph (E)(iii)(I) that is certified for pay-
22 ment after the date of the enactment of this
23 paragraph under section 3528 of title 31,
24 United States Code, and that is paid electroni-
25 cally by direct deposit through the Automated

1 Clearing House (ACH) network, the Secretary
2 of the Treasury (or the Secretary's delegate)
3 shall—

4 “(i) issue the payment using a unique
5 identifier that is reasonably sufficient to
6 allow a financial institution to identify the
7 payment as an applicable payment, and

8 “(ii) further encode the payment pur-
9 suant to the same specifications as re-
10 quired for a benefit payment defined in
11 section 212.3 of title 31, Code of Federal
12 Regulations.

13 “(C) GARNISHMENT.—

14 “(i) ENCODED PAYMENTS.—In the
15 case of a garnishment order that applies to
16 an account that has received an applicable
17 payment that is encoded as provided in
18 subparagraph (B), a financial institution
19 shall follow the requirements and proce-
20 dures set forth in part 212 of title 31,
21 Code of Federal Regulations, except—

22 “(I) notwithstanding section
23 212.4 of title 31, Code of Federal
24 Regulations (and except as provided
25 in subclause (II)), a financial institu-

tion shall not fail to follow the procedures of sections 212.5 and 212.6 of such title with respect to a garnishment order merely because such order has attached, or includes, a notice of right to garnish Federal benefits issued by a State child support enforcement agency, and

“(II) a financial institution shall not, with regard to any applicable payment, be required to provide the notice referenced in sections 212.6 and 212.7 of title 31, Code of Federal Regulations.

“(ii) OTHER PAYMENTS.—In the case of a garnishment order (other than an order that has been served by the United States) that has been received by a financial institution and that applies to an account into which an applicable payment that has not been encoded as provided in subparagraph (B) has been deposited electronically on any date during the lookback period or into which an applicable payment that has been deposited by check on any

1 date in the lookback period, the financial
2 institution, upon the request of the account
3 holder, shall treat the amount of the funds
4 in the account at the time of the request,
5 up to the amount of the applicable pay-
6 ment (in addition to any amounts other-
7 wise protected under part 212 of title 31,
8 Code of Federal Regulations), as exempt
9 from a garnishment order without requir-
10 ing the consent of the party serving the
11 garnishment order or the judgment cred-
12 itor.

13 “(iii) LIABILITY.—A financial institu-
14 tion that acts in good faith in reliance on
15 clauses (i) or (ii) shall not be subject to li-
16 ability or regulatory action under any Fed-
17 eral or State law, regulation, court or other
18 order, or regulatory interpretation for ac-
19 tions concerning any applicable payments.

20 “(D) NO RECLAMATION RIGHTS.—This
21 paragraph shall not alter the status of applica-
22 ble payments as tax refunds or other nonbenefit
23 payments for purpose of any reclamation rights
24 of the Department of the Treasury or the Inter-

1 nal Revenue Service as per part 210 of title 31,
2 Code of Federal Regulations.

3 “(E) DEFINITIONS.—For purposes of this
4 paragraph—

5 “(i) ACCOUNT HOLDER.—The term
6 ‘account holder’ means a natural person
7 whose name appears in a financial institu-
8 tion’s records as the direct or beneficial
9 owner of an account.

10 “(ii) ACCOUNT REVIEW.—The term
11 ‘account review’ means the process of ex-
12 amining deposits in an account to deter-
13 mine if an applicable payment has been de-
14 posited into the account during the
15 lookback period. The financial institution
16 shall perform the account review following
17 the procedures outlined in section 212.5 of
18 title 31, Code of Federal Regulations and
19 in accordance with the requirements of sec-
20 tion 212.6 of title 31, Code of Federal
21 Regulations.

22 “(iii) APPLICABLE PAYMENT.—The
23 term ‘applicable payment’ means—

1 “(I) any advance refund amount
 2 paid pursuant to section 6428B(g) of
 3 the Internal Revenue Code of 1986,

4 “(II) any payment made by a
 5 possession of the United States with a
 6 mirror code tax system (as defined in
 7 subsection (b) of this section) pursu-
 8 ant to such subsection which cor-
 9 responds to a payment described in
 10 subclause (I), and

11 “(III) any payment made by a
 12 possession of the United States with-
 13 out a mirror code tax system (as so
 14 defined) pursuant to subsection (b) of
 15 this section.

16 “(iv) GARNISHMENT.—The term ‘gar-
 17 nishment’ means execution, levy, attach-
 18 ment, garnishment, or other legal process.

19 “(v) GARNISHMENT ORDER.—The
 20 term ‘garnishment order’ means a writ,
 21 order, notice, summons, judgment, levy, or
 22 similar written instruction issued by a
 23 court, a State or State agency, a munici-
 24 pality or municipal corporation, or a State
 25 child support enforcement agency, includ-

1 ing a lien arising by operation of law for
2 overdue child support or an order to freeze
3 the assets in an account, to effect a gar-
4 nishment against a debtor.

5 “(vi) LOOKBACK PERIOD.—The term
6 ‘lookback period’ means the two-month pe-
7 riod that begins on the date preceding the
8 date of account review and ends on the
9 corresponding date of the month two
10 months earlier, or on the last date of the
11 month two months earlier if the cor-
12 responding date does not exist.”.

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

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