

117TH CONGRESS  
1ST SESSION

# S. 725

To end offshore corporate tax avoidance, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 11, 2021

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

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## A BILL

To end offshore corporate tax avoidance, 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       “Stop Tax Haven Abuse Act”.

6       (b) AMENDMENT OF 1986 CODE.—Except as other-  
7       wise expressly provided, whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment  
9       to, or repeal of, a section or other provision, the reference  
10      shall be considered to be made to a section or other provi-  
11      sion of the Internal Revenue Code of 1986.

1 (c) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

Sec. 1. Short title, etc.

#### TITLE I—ENDING CORPORATE OFFSHORE TAX AVOIDANCE

Sec. 101. Repeal of check-the-box rules for certain foreign entities and CFC look-thru rules.

Sec. 102. Swap payments made from the United States to persons offshore.

Sec. 103. Requirement to disclose total corporate taxes paid.

Sec. 104. Penalty for election to pay tax on deferred foreign income in installments.

Sec. 105. Modifications to base erosion and anti-abuse tax.

Sec. 106. Treatment of foreign base company oil related income as subpart F income.

Sec. 107. Modifications of foreign tax credit rules applicable to dual capacity taxpayers.

Sec. 108. Treatment of intangibles transferred to partnerships.

#### TITLE II—ADDITIONAL MEASURES TO COMBAT TAX EVASION

Sec. 201. Authorizing special measures against foreign jurisdictions, financial institutions, and others that significantly impede United States tax enforcement.

Sec. 202. Strengthening the Foreign Account Tax Compliance Act (FATCA).

Sec. 203. Reporting United States beneficial owners of foreign owned financial accounts.

Sec. 204. Penalty for failing to disclose offshore holdings.

Sec. 205. Deadline for anti-money laundering rule for investment advisers.

Sec. 206. Anti-money laundering requirements for formation agents.

Sec. 207. Strengthening John Doe summons proceedings.

Sec. 208. Improving enforcement of foreign financial account reporting.

## 3 **TITLE I—ENDING CORPORATE** 4 **OFFSHORE TAX AVOIDANCE**

### 5 **SEC. 101. REPEAL OF CHECK-THE-BOX RULES FOR CERTAIN** 6 **FOREIGN ENTITIES AND CFC LOOK-THRU** 7 **RULES.**

8 (a) CHECK-THE-BOX RULES.—Paragraph (3) of sec-  
 9 tion 7701(a) is amended—

10 (1) by striking “and”, and

1 (2) by inserting after “insurance companies”  
 2 the following: “, and any foreign business entity  
 3 that—

4 “(A) has a single owner that does not have  
 5 limited liability, or

6 “(B) has one or more members all of  
 7 which have limited liability”.

8 (b) LOOK-THRU RULE.—Subparagraph (C) of sec-  
 9 tion 954(c)(6) is amended to read as follows:

10 “(C) TERMINATION.—Subparagraph (A)  
 11 shall not apply to dividends, interest, rents, and  
 12 royalties received or accrued after the date of  
 13 the enactment of the Stop Tax Haven Abuse  
 14 Act.”.

15 (c) EFFECTIVE DATE.—

16 (1) The amendments made by subsection (a)  
 17 shall take effect on the date of the enactment of this  
 18 Act.

19 (2) The amendment made by subsection (b)  
 20 shall apply to payments received after the date of  
 21 the enactment of this Act.

22 **SEC. 102. SWAP PAYMENTS MADE FROM THE UNITED**  
 23 **STATES TO PERSONS OFFSHORE.**

24 (a) TAX ON SWAP PAYMENTS RECEIVED BY FOR-  
 25 EIGN PERSONS.—Section 871(a)(1) is amended—

1 (1) by inserting “swap payments (as identified  
 2 in section 1256(b)(2)(B)),” after “annuities,” in  
 3 subparagraph (A), and

4 (2) by adding at the end the following new sen-  
 5 tence: “In the case of swap payments, the source of  
 6 a swap payment is determined by reference to the lo-  
 7 cation of the payor.”.

8 (b) TAX ON SWAP PAYMENTS RECEIVED BY FOR-  
 9 EIGN CORPORATIONS.—Section 881(a) is amended—

10 (1) by inserting “swap payments (as identified  
 11 in section 1256(b)(2)(B)),” after “annuities,” in  
 12 paragraph (1), and

13 (2) by adding at the end the following new sen-  
 14 tence: “In the case of swap payments, the source of  
 15 a swap payment is determined by reference to the lo-  
 16 cation of the payor.”.

17 **SEC. 103. REQUIREMENT TO DISCLOSE TOTAL CORPORATE**  
 18 **TAXES PAID.**

19 (a) IN GENERAL.—Section 13 of the Securities Ex-  
 20 change Act of 1934 (15 U.S.C. 78m) is amended by add-  
 21 ing at the end the following new subsection:

22 “(s) DISCLOSURE OF TOTAL CORPORATE TAXES  
 23 PAID.—

24 “(1) ISSUER DISCLOSURE REQUIREMENT.—  
 25 Each issuer required to file an annual or quarterly

1 report under subsection (a) shall disclose in that re-  
2 port—

3 “(A) the total pre-tax profit of the issuer  
4 during the period covered by the report;

5 “(B) the total amount paid by the issuer  
6 in State taxes during the period covered by the  
7 report;

8 “(C) the total amount paid by the issuer in  
9 Federal taxes during the period covered by the  
10 report; and

11 “(D) the total amount paid by the issuer  
12 in foreign taxes during the period covered by  
13 the report.

14 “(2) DISCLOSURE OF COUNTRY-BY-COUNTRY  
15 REPORTING INFORMATION.—Each issuer required to  
16 file an annual or quarterly report under subsection  
17 (a) shall disclose in that report, for each of its sub-  
18 sidiaries and aggregated on a country-by-country  
19 basis—

20 “(A) revenues generated from transactions  
21 with other constituent entities;

22 “(B) revenues not generated from trans-  
23 actions with other constituent entities;

24 “(C) profit or loss before income tax;

1           “(D) total income tax paid on a cash basis  
2           to all tax jurisdictions, and any taxes withheld  
3           on payments received by the constituent enti-  
4           ties;

5           “(E) total accrued tax expense recorded on  
6           taxable profits or losses, reflecting only oper-  
7           ations in the relevant annual period and exclud-  
8           ing deferred taxes or provisions for uncertain  
9           tax liabilities;

10          “(F) stated capital, except that the stated  
11          capital of a permanent establishment must be  
12          reported in the tax jurisdiction of residence of  
13          the legal entity of which it is a permanent es-  
14          tablishment unless there is a defined capital re-  
15          quirement in the permanent establishment tax  
16          jurisdiction for regulatory purposes;

17          “(G) total accumulated earnings, except  
18          that accumulated earnings of a permanent es-  
19          tablishment must be reported by the legal entity  
20          of which it is a permanent establishment;

21          “(H) total number of employees on a full-  
22          time equivalent basis; and

23          “(I) net book value of tangible assets,  
24          which, for purposes of this section, does not in-

1           clude cash or cash equivalents, intangibles, or  
2           financial assets.

3           “(3) AVAILABILITY OF INFORMATION.—The  
4           Commission shall make the information filed with  
5           the Commission pursuant to this subsection publicly  
6           available through the Commission website in a man-  
7           ner that is searchable, sortable, and downloadable.”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9           this section shall apply to disclosures made after the date  
10          of the enactment of this Act.

11 **SEC. 104. PENALTY FOR ELECTION TO PAY TAX ON DE-**  
12 **FERRED FOREIGN INCOME IN INSTALL-**  
13 **MENTS.**

14          (a) IN GENERAL.—Section 965(h) is amended by  
15          adding at the end the following new paragraph:

16               “(7) PENALTY.—Interest on installments under  
17               this subsection shall be payable as determined under  
18               section 6601 by treating the last date prescribed for  
19               payment for any installment as the date for payment  
20               of the first installment under this subsection.”.

21          (b) EFFECTIVE DATE.—The amendment made by  
22          subsection (a) shall take effect as if included in section  
23          14103 of Public Law 115–97.

1 **SEC. 105. MODIFICATIONS TO BASE EROSION AND ANTI-**  
 2 **ABUSE TAX.**

3 (a) REDUCTION OF EXEMPTION BASED ON ANNUAL  
 4 GROSS RECEIPTS.—Section 59A(e)(1)(B) is amended by  
 5 striking “\$500,000,000” and inserting “\$100,000,000”.

6 (b) ELIMINATION OF EXCEPTION BASED ON BASE  
 7 EROSION PERCENTAGE.—Section 59(e)(1) is amended by  
 8 inserting “and” at the end of subparagraph (A), by strik-  
 9 ing “, and” at the end of subparagraph (B) and inserting  
 10 a period, and by striking subparagraph (C).

11 (c) CERTAIN CAPITALIZED AMOUNTS INCLUDED AS  
 12 BASE EROSION PAYMENTS.—Section 59A(d) is amended  
 13 by redesignating paragraphs (4) and (5) as paragraphs  
 14 (5) and (6), respectively, and by inserting after paragraph  
 15 (3) the following new paragraph:

16 “(4) CERTAIN CAPITALIZED AMOUNTS.—Such  
 17 term shall also include any interest, royalty, or any  
 18 other amount identified by the Secretary that is paid  
 19 or accrued by the taxpayer to a foreign person which  
 20 is a related party of the taxpayer and with respect  
 21 to which the taxpayer increases the value of property  
 22 under section 1016 or any other provision of this  
 23 title.”.

24 (d) EFFECTIVE DATE.—The amendments made by  
 25 this section shall apply to taxable years beginning after  
 26 the date of the enactment of this Act.

1 **SEC. 106. TREATMENT OF FOREIGN BASE COMPANY OIL RE-**  
2 **LATED INCOME AS SUBPART F INCOME.**

3 (a) IN GENERAL.—Section 954(a) is amended by  
4 striking “and” at the end of paragraph (2), by striking  
5 the period at the end of paragraph (3) and inserting “,  
6 and”, and by adding at the end the following new para-  
7 graph:

8 “(4) the foreign base company oil related in-  
9 come for the taxable year (determined under sub-  
10 section (g) and reduced as provided in subsection  
11 (b)(5)).”.

12 (b) FOREIGN BASE COMPANY OIL RELATED IN-  
13 COME.—Section 954 is amended by inserting after sub-  
14 section (e) the following new subsection:

15 “(g) FOREIGN BASE COMPANY OIL RELATED IN-  
16 COME.—For purposes of this section, the term ‘foreign  
17 base company oil related income’ means foreign oil related  
18 income (within the meaning of paragraphs (2) and (3) of  
19 section 907(c)) other than income derived from a source  
20 within a foreign country in connection with—

21 “(1) oil or gas which was extracted from an oil  
22 or gas well located in such foreign country, or

23 “(2) oil, gas, or a primary product of oil or gas  
24 which is sold by the foreign corporation or a related  
25 person for use or consumption within such country

1 or is loaded in such country on a vessel or aircraft  
 2 as fuel for such vessel or aircraft.

3 Such term shall not include any foreign personal holding  
 4 company income (as defined in subsection (c)).”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 952(c)(1)(B)(iii) is amended by re-  
 7 designating subclauses (III) and (IV) as subclauses  
 8 (IV) and (V), respectively, and by inserting after  
 9 subclause (II) the following new subclause:

10 “(III) foreign base company oil  
 11 related income.”.

12 (2) Section 954(b) is amended—

13 (A) by striking “and the foreign base com-  
 14 pany services income” in paragraph (5) and in-  
 15 serting “the foreign base company services in-  
 16 come, and the foreign base company oil related  
 17 income”, and

18 (B) by adding at the end the following new  
 19 paragraph:

20 “(6) FOREIGN BASE COMPANY OIL RELATED IN-  
 21 COME NOT TREATED AS ANOTHER KIND OF BASE  
 22 COMPANY INCOME.—Income of a corporation which  
 23 is foreign base company oil related income shall not  
 24 be considered foreign base company income of such

1 corporation under paragraph (2) or (3) of subsection  
2 (a).”.

3 (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to taxable years of foreign corpora-  
5 tions beginning after the date of the enactment of this  
6 Act, and to taxable years of United States shareholders  
7 in which or with which such taxable years of foreign cor-  
8 porations end.

9 **SEC. 107. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**

10 **APPLICABLE TO DUAL CAPACITY TAXPAYERS.**

11 (a) **IN GENERAL.**—Section 901 of the Internal Rev-  
12 enue Code of 1986 is amended by redesignating subsection  
13 (n) as subsection (o) and by inserting after subsection (m)  
14 the following new subsection:

15 “(n) **SPECIAL RULES RELATING TO DUAL CAPACITY**  
16 **TAXPAYERS.**—

17 “(1) **GENERAL RULE.**—Notwithstanding any  
18 other provision of this chapter, any amount paid or  
19 accrued by a dual capacity taxpayer to a foreign  
20 country or possession of the United States for any  
21 period with respect to combined foreign oil and gas  
22 income (as defined in section 907(b)(1)) shall not be  
23 considered a tax to the extent such amount exceeds  
24 the amount (determined in accordance with regula-

tions) which would have been required to be paid if the taxpayer were not a dual capacity taxpayer.

“(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term ‘dual capacity taxpayer’ means, with respect to any foreign country or possession of the United States, a person who—

“(A) is subject to a levy of such country or possession, and

“(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 2020.

(2) CONTRARY TREATY OBLIGATIONS UPHOLD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

## **SEC. 108. TREATMENT OF INTANGIBLES TRANSFERRED TO PARTNERSHIPS.**

(a) REPEAL OF CERTAIN REGULATORY AUTHORITY.—Section 367(d) is amended by striking paragraph (3).

1 (b) EXCEPTION TO RULES PROVIDING NONRECOGNITION OF GAIN.—Section 721(d) is amended to read as follows:  
 2  
 3

4 “(d) CERTAIN TRANSFERS OF INTANGIBLE PROPERTY TO PARTNERSHIPS.—  
 5

6 “(1) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if a United  
 7 States person transfers any intangible property within the meaning of section 367(d)(4) to a specified  
 8 partnership in an exchange described in this section, subsection (a) shall not apply to the transfer of such  
 9 property and the provisions of section 367(d)(2) shall apply to such transfer.  
 10  
 11  
 12  
 13

14 “(2) SPECIFIED PARTNERSHIP.—For purposes of this subsection, the term ‘specified partnership’  
 15 means any partnership if any item of income or gain attributable to intangible property is taken into account in determining any distributive share of such  
 16 partnership to a person that is not a United States person.”.  
 17  
 18  
 19  
 20

21 (c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the  
 22 enactment of this Act, in taxable years ending after such  
 23 date.  
 24

1 **TITLE II—ADDITIONAL MEAS-**  
 2 **URES TO COMBAT TAX EVA-**  
 3 **SION**

4 **SEC. 201. AUTHORIZING SPECIAL MEASURES AGAINST FOR-**  
 5 **EIGN JURISDICTIONS, FINANCIAL INSTITU-**  
 6 **TIONS, AND OTHERS THAT SIGNIFICANTLY**  
 7 **IMPEDE UNITED STATES TAX ENFORCEMENT.**

8 (a) IN GENERAL.—Section 5318A of title 31, United  
 9 States Code, is amended—

10 (1) by striking the section heading and insert-  
 11 ing the following: “**Special measures for juris-**  
 12 **dictions, financial institutions, or inter-**  
 13 **national transactions that are of primary**  
 14 **money laundering concern or signifi-**  
 15 **cantly impede United States tax enforce-**  
 16 **ment**”;

17 (2) in subsection (a), by striking the subsection  
 18 heading and inserting the following: “SPECIAL  
 19 MEASURES TO COUNTER MONEY LAUNDERING AND  
 20 EFFORTS TO SIGNIFICANTLY IMPEDE UNITED  
 21 STATES TAX ENFORCEMENT”;

22 (3) in subsection (c)—

23 (A) by striking the subsection heading and  
 24 inserting the following: “CONSULTATIONS AND  
 25 INFORMATION TO BE CONSIDERED IN FINDING

JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE SIGNIFICANTLY IMPEDING UNITED STATES TAX ENFORCEMENT”; and

(B) in paragraph (2), by adding at the end the following:

“(C) OTHER CONSIDERATIONS.—The fact that a jurisdiction or financial institution is cooperating with the United States on implementing the requirements specified in chapter 4 of the Internal Revenue Code of 1986 may be favorably considered in evaluating whether such jurisdiction or financial institution is significantly impeding United States tax enforcement.”;

(4) in subsection (a)(1), by inserting “or is significantly impeding United States tax enforcement” after “primary money laundering concern”;

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting “in matters involving money laundering,” before “shall consult”; and

(ii) by striking “and” at the end;

1 (B) by redesignating subparagraph (B) as  
 2 subparagraph (C); and

3 (C) by inserting after subparagraph (A)  
 4 the following:

5 “(B) in matters involving United States  
 6 tax enforcement, shall consult with the Commis-  
 7 sioner of Internal Revenue, the Secretary of  
 8 State, the Attorney General of the United  
 9 States, and in the sole discretion of the Sec-  
 10 retary, such other agencies and interested par-  
 11 ties as the Secretary may find to be appro-  
 12 priate; and”;

13 (6) in each of paragraphs (1)(A), (2), (3), and  
 14 (4) of subsection (b), by inserting “or to be signifi-  
 15 cantly impeding United States tax enforcement”  
 16 after “primary money laundering concern” each  
 17 place that term appears;

18 (7) in subsection (b), by striking paragraph (5)  
 19 and inserting the following:

20 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-  
 21 ING OR MAINTAINING CERTAIN CORRESPONDENT OR  
 22 PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING  
 23 CERTAIN PAYMENT CARDS.—If the Secretary finds a  
 24 jurisdiction outside of the United States, 1 or more  
 25 financial institutions operating outside of the United

1 States, or 1 or more classes of transactions within  
2 or involving a jurisdiction outside of the United  
3 States to be of primary money laundering concern or  
4 to be significantly impeding United States tax en-  
5 forcement, the Secretary, in consultation with the  
6 Secretary of State, the Attorney General of the  
7 United States, and the Chairman of the Board of  
8 Governors of the Federal Reserve System, may pro-  
9 hibit, or impose conditions upon—

10 “(A) the opening or maintaining in the  
11 United States of a correspondent account or  
12 payable-through account by any domestic finan-  
13 cial institution or domestic financial agency for  
14 or on behalf of a foreign banking institution, if  
15 such correspondent account or payable-through  
16 account involves any such jurisdiction or insti-  
17 tution, or if any such transaction may be con-  
18 ducted through such correspondent account or  
19 payable-through account; or

20 “(B) the authorization, approval, or use in  
21 the United States of a credit card, charge card,  
22 debit card, or similar credit or debit financial  
23 instrument by any domestic financial institu-  
24 tion, domestic financial agency, or credit card  
25 company or association for or on behalf of a

1 foreign banking institution, if such credit card,  
 2 charge card, debit card, or similar credit or  
 3 debit financial instrument involves any such ju-  
 4 risdiction or institution, or if any such trans-  
 5 action may be conducted through such credit  
 6 card, charge card, debit card, or similar credit  
 7 or debit financial instrument.”;

8 (8) in subsection (c)(1), by inserting “or is sig-  
 9 nificantly impeding United States tax enforcement”  
 10 after “primary money laundering concern”;

11 (9) in subsection (c)(2)(A)—

12 (A) in clause (ii), by striking “bank secrecy  
 13 or special regulatory advantages” and inserting  
 14 “bank, tax, corporate, trust, or financial secrecy  
 15 or regulatory advantages”;

16 (B) in clause (iii), by striking “supervisory  
 17 and counter-money” and inserting “supervisory,  
 18 international tax enforcement, and counter-  
 19 money”;

20 (C) in clause (v), by striking “banking or  
 21 secrecy” and inserting “banking, tax, or se-  
 22 crecy”; and

23 (D) in clause (vi), by inserting “, tax trea-  
 24 ty, or tax information exchange agreement”  
 25 after “treaty”;

1 (10) in subsection (c)(2)(B)—

2 (A) in clause (i), by inserting “or tax eva-  
3 sion” after “money laundering”; and

4 (B) in clause (iii), by inserting “, tax eva-  
5 sion,” after “money laundering”; and

6 (11) in subsection (d), by inserting “involving  
7 money laundering, and shall notify, in writing, the  
8 Committee on Finance of the Senate and the Com-  
9 mittee on Ways and Means of the House of Rep-  
10 resentatives of any such action involving United  
11 States tax enforcement” after “such action”.

12 (b) CLERICAL AMENDMENT.—The table of contents  
13 for chapter 53 of title 31, United States Code, is amended  
14 by striking the item relating to section 5318A and insert-  
15 ing the following:

“5318A. Special measures for jurisdictions, financial institutions, or inter-  
national transactions that are of primary money laundering  
concern or significantly impede United States tax enforce-  
ment.”.

16 **SEC. 202. STRENGTHENING THE FOREIGN ACCOUNT TAX**  
17 **COMPLIANCE ACT (FATCA).**

18 (a) REPORTING ACTIVITIES WITH RESPECT TO PAS-  
19 SIVE FOREIGN INVESTMENT COMPANIES.—Section  
20 1298(f) is amended by inserting “, or who directly or indi-  
21 rectly forms, transfers assets to, is a beneficiary of, has  
22 a beneficial interest in, or receives money or property or  
23 the use thereof from,” after “shareholder of”.

1 (b) WITHHOLDABLE PAYMENTS TO FOREIGN FINAN-  
 2 CIAL INSTITUTIONS.—Section 1471(d) is amended—

3 (1) in paragraph (2)(A), by inserting “or trans-  
 4 action” after “any depository”, and

5 (2) in paragraph (5)(C), by striking “or any in-  
 6 terest” and all that follows and inserting “deriva-  
 7 tives, or any interest (including a futures or forward  
 8 contract, swap, or option) in such securities, part-  
 9 nership interests, commodities, or derivatives.”.

10 (c) WITHHOLDABLE PAYMENTS TO OTHER FOREIGN  
 11 FINANCIAL INSTITUTIONS.—Section 1472 is amended—

12 (1) by inserting “as a result of any customer  
 13 identification, anti-money laundering, anti-corrup-  
 14 tion, or similar obligation to identify account hold-  
 15 ers,” after “reason to know,” in subsection (b)(2),  
 16 and

17 (2) by inserting “as posing a low risk of tax  
 18 evasion” after “this subsection” in subsection  
 19 (c)(1)(G).

20 (d) DEFINITIONS.—Clauses (i) and (ii) of section  
 21 1473(2)(A) are each amended by inserting “or as a bene-  
 22 ficial owner” after “indirectly”.

23 (e) SPECIAL RULES.—Section 1474(c) is amended—

24 (1) by inserting “, except that information pro-  
 25 vided under section 1471(c) or 1472(b) may be dis-

1 closed to any Federal law enforcement agency, upon  
 2 request or upon the initiation of the Secretary, to in-  
 3 vestigate or address a possible violation of United  
 4 States law” after “shall apply” in paragraph (1),  
 5 and

6 (2) by inserting “, or has had an agreement  
 7 terminated under such section,” after “section  
 8 1471(b)” in paragraph (2).

9 (f) INFORMATION WITH RESPECT TO FOREIGN FI-  
 10 NANCIAL ASSETS.—Section 6038D(a) is amended by in-  
 11 serting “ownership or beneficial ownership” after “holds  
 12 any”.

13 (g) ESTABLISHING PRESUMPTIONS FOR ENTITIES  
 14 AND TRANSACTIONS INVOLVING NON-FATCA INSTITU-  
 15 TIONS.—

16 (1) PRESUMPTIONS FOR TAX PURPOSES.—

17 (A) IN GENERAL.—Chapter 76 is amended  
 18 by inserting after section 7491 the following  
 19 new subchapter:

20 **“Subchapter F—Presumptions for Certain**  
 21 **Legal Proceedings**

“Sec. 7492. Presumptions pertaining to entities and transactions involving non-  
 FATCA institutions.

1 **“SEC. 7492. PRESUMPTIONS PERTAINING TO ENTITIES AND**  
2 **TRANSACTIONS INVOLVING NON-FATCA IN-**  
3 **STITUTIONS.**

4 “(a) CONTROL.—For purposes of any United States  
5 civil judicial or administrative proceeding to determine or  
6 collect tax, there shall be a rebuttable presumption that  
7 a United States person who, directly or indirectly, formed,  
8 transferred assets to, was a beneficiary of, had a beneficial  
9 interest in, or received money or property or the use there-  
10 of from an entity, including a trust, corporation, limited  
11 liability company, partnership, or foundation, that holds  
12 an account, or in any other manner has assets, in a non-  
13 FATCA institution, exercised control over such entity. The  
14 presumption of control created by this subsection shall not  
15 be applied to prevent the Secretary from determining or  
16 arguing the absence of control.

17 “(b) TRANSFERS OF INCOME.—For purposes of any  
18 United States civil judicial or administrative proceeding  
19 to determine or collect tax, there shall be a rebuttable pre-  
20 sumption that any amount or thing of value received by  
21 a United States person directly or indirectly from an ac-  
22 count or from an entity that holds an account, or in any  
23 other manner has assets, in a non-FATCA institution,  
24 constitutes income of such person taxable in the year of  
25 receipt; and any amount or thing of value paid or trans-  
26 ferred by or on behalf of a United States person directly

1 or indirectly to an account, or entity that holds an ac-  
2 count, or in any other manner has assets, in a non-  
3 FATCA institution, represents previously unreported in-  
4 come of such person taxable in the year of the transfer.

5 “(c) REBUTTING THE PRESUMPTIONS.—The pre-  
6 sumptions established in this section may be rebutted only  
7 by clear and convincing evidence, including detailed docu-  
8 mentary, testimonial, and transactional evidence, estab-  
9 lishing that—

10 “(1) in subsection (a), such taxpayer exercised  
11 no control, directly or indirectly, over account or en-  
12 tity at the time in question, and

13 “(2) in subsection (b), such amounts or things  
14 of value did not represent income related to such  
15 United States person.

16 Any court having jurisdiction of a civil proceeding in which  
17 control of such an offshore account or offshore entity or  
18 the income character of such receipts or amounts trans-  
19 ferred is an issue shall prohibit the introduction by the  
20 taxpayer of any foreign based document that is not au-  
21 thenticated in open court by a person with knowledge of  
22 such document, or any other evidence supplied by a person  
23 outside the jurisdiction of a United States court, unless  
24 such person appears before the court.”.

1 (B) The table of subchapters for chapter  
 2 76 is amended by inserting after the item relat-  
 3 ing to subchapter E the following new item:

“SUBCHAPTER F. PRESUMPTIONS FOR CERTAIN LEGAL PROCEEDINGS”.

4 (2) DEFINITION OF NON-FATCA INSTITUTION.—  
 5 Section 7701(a) is amended by adding at the end  
 6 the following new paragraph:

7 “(51) NON-FATCA INSTITUTION.—The term  
 8 ‘non-FATCA institution’ means any foreign financial  
 9 institution that does not meet the reporting require-  
 10 ments of section 1471(b).”.

11 (3) PRESUMPTIONS FOR SECURITIES LAW PUR-  
 12 POSES.—Section 21 of the Securities Exchange Act  
 13 of 1934 (15 U.S.C. 78u) is amended by adding at  
 14 the end the following new subsection:

15 “(j) PRESUMPTIONS PERTAINING TO CONTROL AND  
 16 BENEFICIAL OWNERSHIP.—

17 “(1) CONTROL.—For purposes of any civil judi-  
 18 cial or administrative proceeding under this title,  
 19 there shall be a rebuttable presumption that a  
 20 United States person who, directly or indirectly,  
 21 formed, transferred assets to, was a beneficiary of,  
 22 had a beneficial interest in, or received money or  
 23 property or the use thereof from an entity, including  
 24 a trust, corporation, limited liability company, part-  
 25 nership, or foundation, that holds an account, or in

1 any other manner has assets, in a non-FATCA insti-  
2 tution (as defined in section 7701(a)(51) of the In-  
3 ternal Revenue Code of 1986), exercised control over  
4 such entity. The presumption of control created by  
5 this paragraph shall not be applied to prevent the  
6 Commission from determining or arguing the ab-  
7 sence of control.

8 “(2) BENEFICIAL OWNERSHIP.—For purposes  
9 of any civil judicial or administrative proceeding  
10 under this title, there shall be a rebuttable presump-  
11 tion that securities that are nominally owned by an  
12 entity, including a trust, corporation, limited liability  
13 company, partnership, or foundation, and that are  
14 held in a non-FATCA institution (as so defined), are  
15 beneficially owned by any United States person who  
16 directly or indirectly exercised control over such enti-  
17 ty. The presumption of beneficial ownership created  
18 by this paragraph shall not be applied to prevent the  
19 Commission from determining or arguing the ab-  
20 sence of beneficial ownership.”.

21 (4) PRESUMPTION FOR REPORTING PURPOSES  
22 RELATING TO FOREIGN FINANCIAL ACCOUNTS.—Sec-  
23 tion 5314 of title 31, United States Code, is amend-  
24 ed by adding at the end the following new sub-  
25 section:

1       “(d) REBUTTABLE PRESUMPTION.—For purposes of  
2 this section, there shall be a rebuttable presumption that  
3 any account with a non-FATCA institution (as defined in  
4 section 7701(a)(51) of the Internal Revenue Code of  
5 1986) contains funds in an amount that is at least suffi-  
6 cient to require a report prescribed by regulations under  
7 this section.”.

8           (5) REGULATORY AUTHORITY.—Not later than  
9 180 days after the date of enactment of this Act, the  
10 Secretary of the Treasury and the Chairman of the  
11 Securities and Exchange Commission shall each  
12 adopt regulations or other guidance necessary to im-  
13 plement the amendments made by this subsection.  
14 The Secretary and the Chairman may, by regulation  
15 or guidance, provide that the presumption of control  
16 shall not extend to particular classes of transactions,  
17 such as corporate reorganizations or transactions  
18 below a specified dollar threshold, if either deter-  
19 mines that applying such amendments to such trans-  
20 actions is not necessary to carry out the purposes of  
21 such amendments.

22       (h) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on the date which is 180 days  
24 after the date of enactment of this Act, whether or not  
25 regulations are issued under subsection (g)(5).

1 **SEC. 203. REPORTING UNITED STATES BENEFICIAL OWN-**  
 2 **ERS OF FOREIGN OWNED FINANCIAL AC-**  
 3 **COUNTS.**

4 (a) IN GENERAL.—Subpart B of part III of sub-  
 5 chapter A of chapter 61 is amended by inserting after sec-  
 6 tion 6045B the following new sections:

7 **“SEC. 6045C. RETURNS REGARDING UNITED STATES BENE-**  
 8 **FICIAL OWNERS OF FINANCIAL ACCOUNTS**  
 9 **LOCATED IN THE UNITED STATES AND HELD**  
 10 **IN THE NAME OF A FOREIGN ENTITY.**

11 “(a) REQUIREMENT OF RETURN.—If—

12 “(1) any withholding agent under sections 1441  
 13 and 1442 has the control, receipt, custody, disposal,  
 14 or payment of any amount constituting gross income  
 15 from sources within the United States of any foreign  
 16 entity, including a trust, corporation, limited liability  
 17 company, partnership, or foundation (other than an  
 18 entity with shares regularly traded on an established  
 19 securities market), and

20 “(2) such withholding agent determines for pur-  
 21 poses of title 14, 18, or 31 of the United States  
 22 Code that a United States person has any beneficial  
 23 interest in the foreign entity or in the account in  
 24 such entity’s name (hereafter in this section referred  
 25 to as ‘United States beneficial owner’),

1 then the withholding agent shall make a return according  
2 to the forms or regulations prescribed by the Secretary.

3 “(b) REQUIRED INFORMATION.—For purposes of  
4 subsection (a) the information required to be included on  
5 the return shall include—

6 “(1) the name, address, and, if known, the tax-  
7 payer identification number of the United States  
8 beneficial owner,

9 “(2) the known facts pertaining to the relation-  
10 ship of such United States beneficial owner to the  
11 foreign entity and the account,

12 “(3) the gross amount of income from sources  
13 within the United States (including gross proceeds  
14 from brokerage transactions), and

15 “(4) such other information as the Secretary  
16 may by forms or regulations provide.

17 “(c) STATEMENTS TO BE FURNISHED TO BENE-  
18 FICIAL OWNERS WITH RESPECT TO WHOM INFORMATION  
19 IS REQUIRED TO BE REPORTED.—A withholding agent  
20 required to make a return under subsection (a) shall fur-  
21 nish to each United States beneficial owner whose name  
22 is required to be set forth in such return a statement  
23 showing—

1           “(1) the name, address, and telephone number  
2           of the information contact of the person required to  
3           make such return, and

4           “(2) the information required to be shown on  
5           such return with respect to such United States bene-  
6           ficial owner.

7   The written statement required under the preceding sen-  
8   tence shall be furnished to the United States beneficial  
9   owner on or before January 31 of the year following the  
10  calendar year for which the return under subsection (a)  
11  was required to be made. In the event the person filing  
12  such return does not have a current address for the United  
13  States beneficial owner, such written statement may be  
14  mailed to the address of the foreign entity.

15   **“SEC. 6045D. RETURNS BY FINANCIAL INSTITUTIONS RE-**  
16                           **GARDING ESTABLISHMENT OF ACCOUNTS AT**  
17                           **NON-FATCA INSTITUTIONS.**

18           “(a) REQUIREMENT OF RETURN.—Any financial in-  
19  stitution directly or indirectly opening a bank, brokerage,  
20  or other financial account for or on behalf of an offshore  
21  entity, including a trust, corporation, limited liability com-  
22  pany, partnership, or foundation (other than an entity  
23  with shares regularly traded on an established securities  
24  market), in a non-FATCA institution (as defined in sec-  
25  tion 7701(a)(51)) at the direction of, on behalf of, or for

1 the benefit of a United States person shall make a return  
2 according to the forms or regulations prescribed by the  
3 Secretary.

4 “(b) REQUIRED INFORMATION.—For purposes of  
5 subsection (a) the information required to be included on  
6 the return shall include—

7 “(1) the name, address, and taxpayer identifica-  
8 tion number of such United States person,

9 “(2) the name and address of the financial in-  
10 stitution at which a financial account is opened, the  
11 type of account, the account number, the name  
12 under which the account was opened, and the  
13 amount of the initial deposit,

14 “(3) if the account is held in the name of an  
15 entity, the name and address of such entity, the type  
16 of entity, and the name and address of any company  
17 formation agent or other professional employed to  
18 form or acquire the entity, and

19 “(4) such other information as the Secretary  
20 may by forms or regulations provide.

21 “(c) STATEMENTS TO BE FURNISHED TO UNITED  
22 STATES PERSONS WITH RESPECT TO WHOM INFORMA-  
23 TION IS REQUIRED TO BE REPORTED.—A financial insti-  
24 tution required to make a return under subsection (a)  
25 shall furnish to each United States person whose name

1 is required to be set forth in such return a statement  
2 showing—

3 “(1) the name, address, and telephone number  
4 of the information contact of the person required to  
5 make such return, and

6 “(2) the information required to be shown on  
7 such return with respect to such United States per-  
8 son.

9 The written statement required under the preceding sen-  
10 tence shall be furnished to such United States person on  
11 or before January 31 of the year following the calendar  
12 year for which the return under subsection (a) was re-  
13 quired to be made.

14 “(d) EXEMPTION.—The Secretary may by regula-  
15 tions exempt any class of United States persons or any  
16 class of accounts or entities from the requirements of this  
17 section if the Secretary determines that applying this sec-  
18 tion to such persons, accounts, or entities is not necessary  
19 to carry out the purposes of this section.”.

20 (b) PENALTIES.—

21 (1) RETURNS.—Section 6724(d)(1)(B) is  
22 amended by striking “or” at the end of clause (xxv),  
23 by striking “and” at the end of clause (xxvi), and  
24 by adding after clause (xxvi) the following new  
25 clauses:

1 “(xxvii) section 6045C(a) (relating to  
 2 returns regarding United States beneficial  
 3 owners of financial accounts located in the  
 4 United States and held in the name of a  
 5 foreign entity), or

6 “(xxviii) section 6045D(a) (relating to  
 7 returns by financial institutions regarding  
 8 establishment of accounts at non-FATCA  
 9 institutions), and”.

10 (2) PAYEE STATEMENTS.—Section 6724(d)(2)  
 11 is amended by redesignating the second subpara-  
 12 graph (JJ) as (KK), by striking “or” at the end of  
 13 subparagraph (JJ), by striking the period at the end  
 14 of subparagraph (KK), and by inserting after sub-  
 15 paragraph (KK) the following new subparagraphs:

16 “(LL) section 6045C(c) (relating to re-  
 17 turns regarding United States beneficial owners  
 18 of financial accounts located in the United  
 19 States and held in the name of a foreign enti-  
 20 ty), or

21 “(MM) section 6045D(c) (relating to re-  
 22 turns by financial institutions regarding estab-  
 23 lishment of accounts at non-FATCA institu-  
 24 tions).”.

1       (c) CLERICAL AMENDMENT.—The table of sections  
 2 for subpart B of part III of subchapter A of chapter 61  
 3 is amended by inserting after the item relating to section  
 4 6045B the following new items:

“Sec. 6045C. Returns regarding United States beneficial owners of financial  
 accounts located in the United States and held in the name of  
 a foreign entity.

“Sec. 6045D. Returns by financial institutions regarding establishment of ac-  
 counts at non-FATCA institutions.”.

5       (d) ADDITIONAL PENALTIES.—

6           (1) ADDITIONAL PENALTIES ON BANKS.—Sec-  
 7 tion 5239(b)(1) of the Revised Statutes of the  
 8 United States (12 U.S.C. 93(b)(1)) is amended by  
 9 inserting “or any of the provisions of section 6045D  
 10 of the Internal Revenue Code of 1986,” after “any  
 11 regulation issued pursuant to,”.

12           (2) ADDITIONAL PENALTIES ON SECURITIES  
 13 FIRMS.—Section 21(d)(3)(A) of the Securities Ex-  
 14 change Act of 1934 (15 U.S.C. 78u(d)(3)(A)) is  
 15 amended by inserting “any of the provisions of sec-  
 16 tion 6045D of the Internal Revenue Code of 1986,”  
 17 after “the rules or regulations thereunder,”.

18       (e) REGULATORY AUTHORITY AND EFFECTIVE  
 19 DATE.—

20           (1) REGULATORY AUTHORITY.—Not later than  
 21 180 days after the date of the enactment of this Act,  
 22 the Secretary of the Treasury shall adopt regula-

1        tions, forms, or other guidance necessary to imple-  
 2        ment this section.

3            (2) EFFECTIVE DATE.—Section 6045C of the  
 4        Internal Revenue Code of 1986 (as added by this  
 5        section) and the amendment made by subsection  
 6        (d)(1) shall take effect with respect to amounts paid  
 7        into foreign owned accounts located in the United  
 8        States after December 31 of the year of the date of  
 9        the enactment of this Act. Section 6045D of such  
 10       Code (as so added) and the amendment made by  
 11       subsection (d)(2) shall take effect with respect to ac-  
 12       counts opened after December 31 of the year of the  
 13       date of the enactment of this Act. Section 6045D of  
 14       such Code (as so added) and the amendment made  
 15       by subsection (d)(2) shall take effect with respect to  
 16       accounts opened after December 31 of the year of  
 17       the date of the enactment of this Act, whether or  
 18       not regulations are issued under Section 6045D.

19    **SEC. 204. PENALTY FOR FAILING TO DISCLOSE OFFSHORE**  
 20            **HOLDINGS.**

21        (a) SECURITIES EXCHANGE ACT OF 1934.—Section  
 22        21(d)(3)(B) of the Securities Exchange Act of 1934 (15  
 23        U.S.C. 78u(d)(3)(B)) is amended by adding at the end  
 24        the following:

1                   “(iv)     FOURTH     TIER.—Notwith-  
 2                   standing clauses (i), (ii), and (iii), for each  
 3                   such violation, the amount of penalty shall  
 4                   not exceed \$1,000,000 for any natural per-  
 5                   son or \$10,000,000 for any other person,  
 6                   if—

7                   “(I) such person directly or indi-  
 8                   rectly controlled any foreign entity, in-  
 9                   cluding any trust, corporation, limited  
 10                  liability company, partnership, or  
 11                  foundation through which an issuer  
 12                  purchased, sold, or held equity or debt  
 13                  instruments;

14                  “(II) such person knowingly or  
 15                  recklessly failed to disclose any such  
 16                  holding, purchase, or sale by the  
 17                  issuer; and

18                  “(III) the holding, purchase, or  
 19                  sale would have been otherwise sub-  
 20                  ject to disclosure by the issuer or such  
 21                  person under this title.”.

22           (b) SECURITIES ACT OF 1933.—Section 20(d)(2) of  
 23 the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is  
 24 amended by adding at the end the following:

“(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), for each such violation, the amount of penalty shall not exceed \$1,000,000 for any natural person or \$10,000,000 for any other person, if—

“(i) such person directly or indirectly controlled any foreign entity, including any trust, corporation, limited liability company, partnership, or foundation through which an issuer purchased, sold, or held equity or debt instruments;

“(ii) such person knowingly or recklessly failed to disclose any such holding, purchase, or sale by the issuer; and

“(iii) the holding, purchase, or sale would have been otherwise subject to disclosure by the issuer or such person under this title.”.

(c) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended by adding at the end the following:

“(D) FOURTH TIER.—Notwithstanding subparagraphs (A), (B), and (C), for each such violation, the amount of penalty shall not ex-

1           ceed \$1,000,000 for any natural person or  
2           \$10,000,000 for any other person, if—

3                   “(i) such person directly or indirectly  
4                   controlled any foreign entity, including any  
5                   trust, corporation, limited liability com-  
6                   pany, partnership, or foundation through  
7                   which an issuer purchased, sold, or held  
8                   equity or debt instruments;

9                   “(ii) such person knowingly or reck-  
10                  lessly failed to disclose any such holding,  
11                  purchase, or sale by the issuer; and

12                  “(iii) the holding, purchase, or sale  
13                  would have been otherwise subject to dis-  
14                  closure by the issuer or such person under  
15                  this title.”.

16 **SEC. 205. DEADLINE FOR ANTI-MONEY LAUNDERING RULE**  
17 **FOR INVESTMENT ADVISERS.**

18           (a) ANTI-MONEY LAUNDERING OBLIGATIONS FOR  
19 INVESTMENT ADVISERS.—Section 5312(a)(2) of title 31,  
20 United States Code, is amended—

21                   (1) in subparagraph (Y), by striking “or” at  
22                   the end;

23                   (2) by redesignating subparagraph (Z) as sub-  
24                   paragraph (BB); and

1           (3) by inserting after subparagraph (Y) the fol-  
 2       lowing:

3           “(Z) an investment adviser (as defined in  
 4           section 202(a) of the Investment Advisers Act  
 5           of 1940);”.

6       (b) RULES REQUIRED.—The Secretary of the Treas-  
 7       ury shall—

8           (1) in consultation with the Securities and Ex-  
 9       change Commission and the Commodity Futures  
 10      Trading Commission, not later than 180 days after  
 11      the date of enactment of this Act, publish a pro-  
 12      posed rule in the Federal Register to carry out the  
 13      amendments made by this section; and

14          (2) not later than 270 days after the date of  
 15      enactment of this Act, publish a final rule in the  
 16      Federal Register on the matter described in para-  
 17      graph (1).

18      (c) CONTENTS.—The final rule published under this  
 19      section shall require, at a minimum, each investment ad-  
 20      viser (as defined in section 202(a)(11) of the Investment  
 21      Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11))) reg-  
 22      istered with the Securities and Exchange Commission pur-  
 23      suant to section 203 of that Act (15 U.S.C. 80b–3)—

24          (1) to submit suspicious activity reports and es-  
 25      tablish an anti-money laundering program under

1 subsections (g) and (h), respectively, of section 5318  
 2 of title 31, United States Code; and

3 (2) to comply with—

4 (A) the customer identification program  
 5 requirements under section 5318(l) of title 31,  
 6 United States Code; and

7 (B) the due diligence requirements under  
 8 section 5318(i) of title 31, United States Code.

9 **SEC. 206. ANTI-MONEY LAUNDERING REQUIREMENTS FOR**  
 10 **FORMATION AGENTS.**

11 (a) ANTI-MONEY LAUNDERING OBLIGATIONS FOR  
 12 FORMATION AGENTS.—Section 5312(a)(2) of title 31,  
 13 United States Code, as amended by section 205 of this  
 14 Act, is amended by inserting after subparagraph (Z) the  
 15 following:

16 “(AA) any person engaged in the business  
 17 of forming new corporations, limited liability  
 18 companies, partnerships, trusts, or other legal  
 19 entities; or”.

20 (b) DEADLINE FOR ANTI-MONEY LAUNDERING  
 21 RULE FOR FORMATION AGENTS.—

22 (1) PROPOSED RULE.—The Secretary of the  
 23 Treasury, in consultation with the Attorney General  
 24 of the United States, the Secretary of Homeland Se-

1 curity, and the Commissioner of Internal Revenue,  
2 shall—

3 (A) not later than 120 days after the date  
4 of enactment of this Act, publish a proposed  
5 rule in the Federal Register requiring persons  
6 described in section 5312(a)(2)(AA) of title 31,  
7 United States Code, as added by this section, to  
8 establish anti-money laundering programs  
9 under section 5318(h) of that title; and

10 (B) not later than 270 days after the date  
11 of enactment of this Act, publish a final rule in  
12 the Federal Register on the matter described in  
13 subparagraph (A).

14 (2) EXCLUSIONS.—The rule promulgated under  
15 this subsection shall exclude from the category of  
16 persons engaged in the business of forming new cor-  
17 porations or other entities—

18 (A) any government agency; and

19 (B) any attorney or law firm that uses a  
20 paid formation agent operating within the  
21 United States to form such corporations or  
22 other entities.

1 **SEC. 207. STRENGTHENING JOHN DOE SUMMONS PRO-**  
2 **CEEDINGS.**

3 (a) IN GENERAL.—Subsection (f) of section 7609 is  
4 amended to read as follows:

5 “(f) ADDITIONAL REQUIREMENT IN THE CASE OF A  
6 JOHN DOE SUMMONS.—

7 “(1) GENERAL RULE.—Any summons described  
8 in subsection (c)(1) which does not identify the per-  
9 son with respect to whose liability the summons is  
10 issued may be served only after a court proceeding  
11 in which the Secretary establishes that—

12 “(A) the summons relates to the investiga-  
13 tion of a particular person or ascertainable  
14 group or class of persons,

15 “(B) there is a reasonable basis for believ-  
16 ing that such person or group or class of per-  
17 sons may fail or may have failed to comply with  
18 any provision of any internal revenue law, and

19 “(C) the information sought to be obtained  
20 from the examination of the records or testi-  
21 mony (and the identity of the person or persons  
22 with respect to whose liability the summons is  
23 issued) is not readily available from other  
24 sources.

25 “(2) EXCEPTION.—Paragraph (1) shall not  
26 apply to any summons which specifies that it is lim-

1       ited to information regarding a United States cor-  
 2       respondent account (as defined in section  
 3       5318A(e)(1)(B) of title 31, United States Code) or  
 4       a United States payable-through account (as defined  
 5       in section 5318A(e)(1)(C) of such title) of a finan-  
 6       cial institution that is held at a non-FATCA institu-  
 7       tion (as defined in section 7701(a)(51)).

8               “(3) PRESUMPTION IN CASES INVOLVING NON-  
 9       FATCA INSTITUTIONS.—For purposes of this section,  
 10      in any case in which the particular person or ascer-  
 11      tainable group or class of persons have financial ac-  
 12      counts in or transactions related to a non-FATCA  
 13      institution (as defined in section 7701(a)(51)), there  
 14      shall be a presumption that there is a reasonable  
 15      basis for believing that such person or group or class  
 16      of persons may fail or may have failed to comply  
 17      with provisions of internal revenue law.

18              “(4) PROJECT JOHN DOE SUMMONSES.—

19                      “(A) IN GENERAL.—Notwithstanding the  
 20              requirements of paragraph (1), the Secretary  
 21              may issue a summons described in paragraph  
 22              (1) if the summons—

23                              “(i) relates to a project which is ap-  
 24                              proved under subparagraph (B),

1 “(ii) is issued to a person who is a  
 2 member of the group or class established  
 3 under subparagraph (B)(i), and

4 “(iii) is issued within 3 years of the  
 5 date on which such project was approved  
 6 under subparagraph (B).

7 “(B) APPROVAL OF PROJECTS.—A project  
 8 may only be approved under this subparagraph  
 9 after a court proceeding in which the Secretary  
 10 establishes that—

11 “(i) any summons issued with respect  
 12 to the project will be issued to a member  
 13 of an ascertainable group or class of per-  
 14 sons, and

15 “(ii) any summons issued with respect  
 16 to such project will meet the requirements  
 17 of paragraph (1).

18 “(C) EXTENSION.—Upon application of  
 19 the Secretary, the court may extend the time  
 20 for issuing such summonses under subpara-  
 21 graph (A)(i) for additional 3-year periods, but  
 22 only if the court continues to exercise oversight  
 23 of such project under subparagraph (D).

24 “(D) ONGOING COURT OVERSIGHT.—Dur-  
 25 ing any period in which the Secretary is author-

1            ized to issue summonses in relation to a project  
2            approved under subparagraph (B) (including  
3            during any extension under subparagraph (C)),  
4            the Secretary shall report annually to the court  
5            on the use of such authority, provide copies of  
6            all summonses with such report, and comply  
7            with the court’s direction with respect to the  
8            issuance of any John Doe summons under such  
9            project.”.

10        (b) JURISDICTION OF COURT.—

11            (1) IN GENERAL.—Paragraph (1) of section  
12        7609(h) is amended by inserting after the first sen-  
13        tence the following new sentence: “Any United  
14        States district court in which a member of the group  
15        or class to which a summons may be issued resides  
16        or is found shall have jurisdiction to hear and deter-  
17        mine the approval of a project under subsection  
18        (f)(4)(B).”.

19            (2) CONFORMING AMENDMENT.—The first sen-  
20        tence of section 7609(h)(1) is amended by striking  
21        “(f)” and inserting “(f)(1)”.

22        (c) EFFECTIVE DATE.—The amendments made by  
23        this section shall apply to summonses issued after the date  
24        of the enactment of this Act.

1 **SEC. 208. IMPROVING ENFORCEMENT OF FOREIGN FINAN-**  
 2 **CIAL ACCOUNT REPORTING.**

3 (a) CLARIFYING THE CONNECTION OF FOREIGN FI-  
 4 NANCIAL ACCOUNT REPORTING TO TAX ADMINISTRA-  
 5 TION.—Paragraph (4) of section 6103(b) is amended by  
 6 adding at the end the following new sentence:

7 “For purposes of subparagraph (A)(i), section 5314  
 8 of title 31, United States Code, and sections 5321  
 9 and 5322 of such title (as such sections pertain to  
 10 such section 5314), shall be considered related stat-  
 11 utes.”.

12 (b) SIMPLIFYING THE CALCULATION OF FOREIGN  
 13 FINANCIAL ACCOUNT REPORTING PENALTIES.—Section  
 14 5321(a)(5)(D)(ii) of title 31, United States Code, is  
 15 amended by striking “the balance in the account at the  
 16 time of the violation” and inserting “the highest balance  
 17 in the account during the reporting period to which the  
 18 violation relates”.

19 (c) CLARIFYING THE USE OF SUSPICIOUS ACTIVITY  
 20 REPORTS UNDER THE BANK SECRECY ACT FOR CIVIL  
 21 TAX LAW ENFORCEMENT.—Section 5319 of title 31,  
 22 United States Code, is amended by inserting “the civil and  
 23 criminal enforcement divisions of the Internal Revenue  
 24 Service,” after “including”.

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