

115TH CONGRESS
1ST SESSION

H. R. 3220

To amend the Internal Revenue Code of 1986 to preserve taxpayers' rights to administrative appeal of deficiency determinations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2017

Mr. SMITH of Missouri (for himself, Ms. SEWELL of Alabama, Ms. JUDY CHU of California, Mr. THOMPSON of California, Mr. CURBELO of Florida, and Mr. HOLDING) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to preserve taxpayers' rights to administrative appeal of deficiency determinations, 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 “Preserving Taxpayers’ Rights Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this bill is as follows:

- Sec. 1. Short title, etc.
- Sec. 2. Ensuring taxpayer right to appeal.
- Sec. 3. Appeals dispute resolution procedures.

Sec. 4. Restriction on Secretarial authority to designate cases for litigation.

Sec. 5. Modification of authority to issue designated summons.

Sec. 6. Limitation on access of non-Internal Revenue Service employees to returns and return information.

1 **SEC. 2. ENSURING TAXPAYER RIGHT TO APPEAL.**

2 (a) IN GENERAL.—Subsection (a) of section 6212 of
3 the Internal Revenue Code of 1986 is amended—

4 (1) by striking “IN GENERAL.—If the Sec-
5 retary” and inserting “IN GENERAL.—

6 “(1) AUTHORIZATION.—If—

7 “(A) the Secretary”;

8 (2) by striking “44, he is authorized” and in-
9 serting “44, and

10 “(B) the requirements of paragraph (2)
11 have been met with respect to such deficiency,
12 the Secretary is authorized”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(2) OPPORTUNITY FOR ADMINISTRATIVE RE-
16 VIEW IN THE OFFICE OF APPEALS.—

17 “(A) IN GENERAL.—The requirements of
18 this paragraph are met with respect to a defi-
19 ciency if, prior to the issuance of the notice of
20 deficiency under paragraph (1)—

21 “(i) the taxpayer has been issued a
22 letter of proposed deficiency that explains
23 the basis for the determination of defi-

1 ciency and allows the taxpayer an oppor-
2 tunity for administrative review in the In-
3 ternal Revenue Service Office of Appeals,
4 and

5 “(ii) either—

6 “(I) the time provided in such
7 letter for requesting administrative re-
8 view in the Internal Revenue Service
9 Office of Appeals has expired and the
10 taxpayer has not made such request,
11 or

12 “(II) such Office of Appeals offi-
13 cially concluded the administrative re-
14 view process with respect to such defi-
15 ciency.

16 “(B) FRIVOLOUS TAX POSITIONS.—The
17 Secretary is authorized to issue regulations lim-
18 iting the application of subparagraph (A) in
19 cases involving solely the failure or refusal to
20 comply with the tax laws because of moral, reli-
21 gious, political, constitutional, conscientious, or
22 similar grounds, or for other positions listed as
23 frivolous under section 6702(c).

24 “(C) CASES DESIGNATED FOR LITIGA-
25 TION.—Subparagraph (A) shall not apply in the

1 case of issues designated for litigation in ac-
2 cordance with section 7124, and the taxpayer's
3 right to administrative review in the Internal
4 Revenue Service Office of Appeals as provided
5 in this paragraph shall not otherwise be de-
6 nied.”.

7 (b) OPPORTUNITY FOR APPEAL IF FEWER THAN 60
8 DAYS REMAIN ON STATUTE OF LIMITATIONS.—Section
9 6212 of the Internal Revenue Code of 1986 is amended
10 by adding at the end the following new subsection:

11 “(e) OPPORTUNITY FOR APPEAL IF FEWER THAN 60
12 DAYS REMAIN ON STATUTE OF LIMITATIONS.—In the
13 case of any issues relating to a potential deficiency with
14 respect to which 60 days or fewer remain in the period
15 applicable under section 6501, if the taxpayer agrees to
16 the extension of such period by 12 months, the Secretary
17 shall issue a letter of proposed deficiency described in sub-
18 section (a)(2)(A)(i) allowing the taxpayer an opportunity
19 for administrative review of such issues in the Internal
20 Revenue Service Office of Appeals before a notice of defi-
21 ciency is issued under this section. Rules similar to the
22 rules of subsection (a)(2)(B) shall apply for purposes of
23 this subsection.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to notices of deficiency issued after
3 the date of the introduction of this Act.

4 **SEC. 3. APPEALS DISPUTE RESOLUTION PROCEDURES.**

5 Subsection (a) of section 7123 of the Internal Rev-
6 enue Code of 1986 is amended to read as follows:

7 “(a) REFERRAL TO APPEALS PROCEDURES.—The
8 Secretary shall prescribe procedures by which any tax-
9 payer may request—

10 “(1) early referral of one or more unresolved
11 issues from the examination or collection division to
12 the Internal Revenue Service Office of Appeals, or

13 “(2) consideration by such Office of Appeals of
14 issues included in—

15 “(A) a letter of proposed deficiency de-
16 scribed in section 6212(a)(2)(A),

17 “(B) a notice of deficiency pursuant to sec-
18 tion 6212, whether or not the taxpayer has filed
19 a petition with the Tax Court pursuant to sec-
20 tion 6213(a), or

21 “(C) a claim for refund, whether or not the
22 taxpayer has filed suit in a district court or the
23 United States Court of Federal Claims with re-
24 spect to the issues included in such claim or re-
25 fund.

1 Such regulations may limit such procedures in cases
 2 involving solely the failure or refusal to comply with
 3 the tax laws because of moral, religious, political,
 4 constitutional, conscientious, or similar grounds, or
 5 for other positions listed as frivolous under section
 6 6702(c). Such procedures shall not be available in
 7 the case of issues designated for litigation in accord-
 8 ance with section 7124, and the taxpayer’s right to
 9 administrative review in the Internal Revenue Serv-
 10 ice Office of Appeals as provided in section
 11 6212(a)(2) shall not otherwise be denied.”.

12 **SEC. 4. RESTRICTION ON SECRETARIAL AUTHORITY TO**
 13 **DESIGNATE CASES FOR LITIGATION.**

14 (a) IN GENERAL.—Chapter 74 of the Internal Rev-
 15 enue Code of 1986 is amended by redesignating section
 16 7124 as section 7125 and by inserting after section 7123
 17 the following new section:

18 **“SEC. 7124. RESTRICTION ON SECRETARIAL AUTHORITY TO**
 19 **DESIGNATE CASES FOR LITIGATION.**

20 “(a) IN GENERAL.—The Secretary may designate
 21 issues arising from the examination or collection division
 22 for litigation, and not permit the taxpayer to request con-
 23 sideration of such issues by the Internal Revenue Service
 24 Office of Appeals under section 7123(a), only to the extent

1 such issues relate to listed transactions (as defined in sec-
 2 tion 6707A(c)(2)).

3 “(b) SETTLEMENT.—In offering terms under a set-
 4 tlement agreement for purposes of the resolution of any
 5 issues arising from the examination or collection division,
 6 the Secretary may offer terms that preclude the taxpayer
 7 from requesting consideration of such issues by the Office
 8 of Appeals under section 7123(a) only to the extent such
 9 issues relate to listed transactions (as defined in section
 10 6707A(c)(2)).”.

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 for chapter 74 of the Internal Revenue Code of 1986 is
 13 amended by striking the item relating to section 7124 and
 14 inserting the following new items:

“Sec. 7124. Restriction on Secretarial authority to designate cases for litigation.

“Sec. 7125. Cross references.”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to the designation of issues for liti-
 17 gation, and offers of settlement terms, after the date of
 18 the introduction of this Act.

19 **SEC. 5. MODIFICATION OF AUTHORITY TO ISSUE DES-**
 20 **IGNATED SUMMONS.**

21 (a) IN GENERAL.—Paragraph (1) of section 6503(j)
 22 of the Internal Revenue Code of 1986 is amended by strik-
 23 ing “coordinated examination program” and inserting “co-
 24 ordinated industry case program”.

1 (b) DESIGNATED SUMMONS.—Clause (i) of section
2 6503(j)(2)(A) of the Internal Revenue Code of 1986 is
3 amended to read as follows:

4 “(i) the issuance of such summons is
5 preceded by a review and written approval
6 of such issuance by the Large Business
7 and International Division Commissioner
8 and the Division Counsel of the Office of
9 Chief Counsel (or their successors)—

10 “(I) which clearly establishes
11 that the taxpayer did not reasonably
12 cooperate with reasonable requests by
13 the Secretary for witnesses, docu-
14 ments, meetings, and interviews, and

15 “(II) which is attached to such
16 summons,”.

17 (c) BURDEN OF PROOF.—Subsection (j) of section
18 6503 of the Internal Revenue Code of 1986 is amended
19 by adding at the end the following new paragraph:

20 “(4) BURDEN OF PROOF.—In any court pro-
21 ceeding described in paragraph (3), the Secretary
22 shall bear the burden of proving that the corporation
23 described in paragraph (1) did not reasonably co-
24 operate with reasonable requests by the Secretary

1 for witnesses, documents, meetings, and inter-
2 views.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to summonses issued after the date
5 of the introduction of this Act.

6 **SEC. 6. LIMITATION ON ACCESS OF NON-INTERNAL REV-**
7 **ENUE SERVICE EMPLOYEES TO RETURNS**
8 **AND RETURN INFORMATION.**

9 (a) IN GENERAL.—Section 7602 of the Internal Rev-
10 enue Code of 1986 is amended by adding at the end the
11 following new subsection:

12 “(f) LIMITATION ON ACCESS OF PERSONS OTHER
13 THAN INTERNAL REVENUE SERVICE OFFICERS AND EM-
14 PLOYEES.—No person other than an officer or employee
15 of the Internal Revenue Service shall be designated under
16 section 6103(n) to receive any books, papers, records, or
17 other data obtained pursuant to this section, other than
18 for the sole purpose of serving as an expert, and no person
19 other than an officer or employee of the Internal Revenue
20 Service or the Office of Chief Counsel may question a wit-
21 ness under oath whose testimony was obtained pursuant
22 to this section.”.

23 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendment made by this section shall
3 take effect on the date of the enactment of this Act.

4 (2) APPLICATION TO CONTRACTS IN EFFECT.—
5 The amendment made by this section shall apply to
6 any contract in effect under section 6103(n) of the
7 Internal Revenue Code of 1986, pursuant to tem-
8 porary Treasury Regulation section 301.7602–1T
9 proposed in Internal Revenue Bulletin 2014–28,
10 Treasury Regulation section 301.7602–1(b)(3), or
11 any similar or successor regulation, that is in effect
12 on the date of the enactment of this Act.

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