

116TH CONGRESS
1ST SESSION

S. 1099

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 SENATE OF THE UNITED STATES

APRIL 9, 2019

Mr. SCOTT of South Carolina (for himself, Mr. BROWN, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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 forfeiture
5 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 seizure and of the
13 person’s rights 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

the Internal Revenue Service requests a hearing by a court of competent jurisdiction within 30 days after the date on which notice is provided under subclause (ii), such property shall be returned unless the court holds an adversarial hearing and finds within 30 days of such request (or such longer period as the court may provide, but only on request of an interested party) that there is probable cause to believe that there is a violation of section 5324 involving such property and probable cause to believe that the property to be seized was derived from an illegal source or the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than section 5324.”.

SEC. 3. EXCLUSION OF INTEREST RECEIVED IN ACTION TO RECOVER PROPERTY SEIZED BY THE INTERNAL REVENUE SERVICE BASED ON STRUCTURING TRANSACTION.

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

1 **“SEC. 139H. INTEREST RECEIVED IN ACTION TO RECOVER**
 2 **PROPERTY SEIZED BY THE INTERNAL REV-**
 3 **ENUE SERVICE BASED ON STRUCTURING**
 4 **TRANSACTION.**

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

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 for part III of subchapter B of chapter 1 of such Code
 13 is amended by inserting before the item relating to section
 14 140 the following new item:

“Sec. 139H. Interest received in action to recover property seized by the Internal Revenue Service based on structuring transaction.”.

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

