

117TH CONGRESS
1ST SESSION

H. R. 4107

To amend the Internal Revenue Code of 1986 to modify and reform rules relating to investigations and whistleblowers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2021

Mr. THOMPSON of California (for himself and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to modify and reform rules relating to investigations and whistleblowers, 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 “IRS Whistleblower
5 Program Improvement Act of 2021”.

1 **SEC. 2. STANDARD AND SCOPE OF REVIEW OF WHISTLE-**
2 **BLOWER AWARD DETERMINATION.**

3 (a) IN GENERAL.—Paragraph (4) of section 7623(b)
4 of the Internal Revenue Code of 1986 is amended—

5 (1) by striking “appealed to” and inserting “re-
6 viewed by”, and

7 (2) by adding at the end the following: “Any re-
8 view by the Tax Court under the preceding sentence
9 shall be de novo and shall be based on the adminis-
10 trative record established at the time of the original
11 determination and any additional newly discovered
12 or previously unavailable evidence.”.

13 (b) CONFORMING AMENDMENT.—The heading of
14 paragraph (4) of section 7623(b) of the Internal Revenue
15 Code of 1986 is amended by striking “APPEAL” and in-
16 serting “REVIEW”,

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to cases under section 7623(b)(4)
19 of the Internal Revenue Code of 1986 which are pending
20 on, or filed on or after, the date of the enactment of this
21 Act.

22 **SEC. 3. EXEMPTION FROM SEQUESTRATION.**

23 (a) IN GENERAL.—Section 255 of the Balanced
24 Budget and Emergency Deficit Control Act of 1985 (2
25 U.S.C. 905) is amended—

1 (1) by redesignating subsection (k) as sub-
2 section (l); and

3 (2) by inserting after subsection (j) the fol-
4 lowing:

5 “(k) AWARDS TO WHISTLEBLOWERS.—An award au-
6 thorized under section 7623 of the Internal Revenue Code
7 of 1986 shall be exempt from reduction under any order
8 issued under this part.”.

9 (b) APPLICABILITY.—The amendment made by this
10 section shall apply to any sequestration order issued under
11 the Balanced Budget and Emergency Deficit Control Act
12 of 1985 (2 U.S.C. 900 et seq.) after December 31, 2020.

13 **SEC. 4. WHISTLEBLOWER PRIVACY PROTECTIONS.**

14 (a) IN GENERAL.—Paragraph (4) of section 7623(b)
15 of the Internal Revenue Code of 1986, as amended by sec-
16 tion 2, is further amended—

17 (1) by striking “DETERMINATION.—Any deter-
18 mination” and inserting “DETERMINATION.—

19 “(A) IN GENERAL.—Any determination”,
20 and

21 (2) by adding at the end the following new sub-
22 paragraph:

23 “(B) PRESUMPTION OF ANONYMITY.—For
24 purposes of Rule 345(a) of the Tax Court Rules
25 of Practice and Procedure (as in effect on the

1 date of the enactment of the IRS Whistleblower
2 Program Improvement Act of 2021), and any
3 successor rule, with respect to any action under
4 this paragraph there shall be a rebuttable pre-
5 sumption that a whistleblower would be subject
6 to retaliation, physical harm, social and profes-
7 sional stigma, or economic distress which out-
8 weighs the counterbalancing societal interests in
9 knowing the whistleblower's identity.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to petitions filed under Rule 345(a)
12 of the Tax Court Rules of Practice and Procedure which
13 are pending on, or filed on or after, the date of the enact-
14 ment of this Act.

15 **SEC. 5. MODIFICATION OF IRS WHISTLEBLOWER REPORT.**

16 (a) IN GENERAL.—Section 406(c) of division A of the
17 Tax Relief and Health Care Act of 2006 is amended by
18 striking “such use,” in paragraph (1) and inserting “such
19 use (which shall include a list and descriptions of the top
20 tax avoidance schemes, not to exceed 10, disclosed by
21 whistleblowers during such year),”.

22 (b) EFFECTIVE DATE.— The amendment made by
23 this section shall apply to reports the due date for which
24 are after the enactment of this Act.

1 **SEC. 6. INTEREST ON WHISTLEBLOWER AWARDS.**

2 (a) IN GENERAL.—Section 7623(b) of the Internal
3 Revenue Code of 1986 is amended by redesignating para-
4 graphs (5) and (6) as paragraphs (6) and (7), respectively,
5 and by inserting after paragraph (5) the following new
6 paragraph:

7 “(5) INTEREST.—

8 “(A) IN GENERAL.—If the Secretary has
9 not provided notice to an individual described in
10 paragraph (1) of a preliminary award deter-
11 mination before the applicable date, the amount
12 of any award under this subsection shall include
13 interest from such date at the overpayment rate
14 under section 6621(a).

15 “(B) EXCEPTION.—No interest shall ac-
16 crue under this paragraph after the date on
17 which the Secretary provides notice to the indi-
18 vidual of a preliminary award determination.

19 “(C) APPLICABLE DATE.—For purposes of
20 this paragraph, the applicable date is the date
21 that is 12 months after the first date on
22 which—

23 “(i) all of the proceeds resulting from
24 actions subject to the award determination
25 have been collected, and

26 “(ii) either—

1 “(I) the statutory period for fil-
 2 ing a claim for refund has expired, or
 3 “(II) the taxpayers subject to the
 4 actions and the Secretary have agreed
 5 with finality to the tax or other liabil-
 6 ities for the periods at issue, and ei-
 7 ther the taxpayers have waived the
 8 right to file a claim for refund or any
 9 claim for refund has been resolved.”.

10 (b) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on the date of the enactment
 12 of this Act.

13 **SEC. 7. RETENTION OF COLLECTED PROCEEDS TO FUND**
 14 **PROGRAM COSTS.**

15 (a) IN GENERAL.—Section 7623 of the Internal Rev-
 16 enue Code of 1986 is amended by adding at the end the
 17 following new subsection:

18 “(e) RETENTION OF COLLECTED PROCEEDS TO
 19 FUND PROGRAM COSTS.—

20 “(1) IN GENERAL.—The Secretary may retain
 21 annually up to 3 percent of the amount of proceeds
 22 collected as a result of actions described in sub-
 23 section (a) (including any related actions) or from
 24 any settlements in response to such actions to be
 25 used for program costs (within the meaning of sec-

tion 6307(d)(2)) associated with administering the whistleblower programs under this section, including reimbursing the applicable divisions of the Internal Revenue Service for costs associated with investigating whistleblower claims, except that the amount so retained in any year shall not exceed \$10,000,000. The Secretary shall keep adequate records regarding amounts so retained and used.

“(2) COORDINATION RULES.—The amount credited as paid by any taxpayer, and any award to a whistleblower, shall be determined without regard to this subsection.

“(3) ADJUSTMENT FOR INFLATION.—In the case of calendar years beginning after 2022, the \$10,000,000 amount in paragraph (1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘2021’ for ‘2016’ in subparagraph (A)(ii) thereof.

If any increase under the preceding sentence is not a multiple of \$10,000, such increase shall be rounded to the next lowest multiple of \$10,000.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to proceeds collected after the date
3 of the enactment of this Act.

4 **SEC. 8. CORRECTION REGARDING DEDUCTIONS FOR AT-**
5 **TORNEY'S FEES.**

6 (a) IN GENERAL.—Section 62(a)(21)(A)(i) of the In-
7 ternal Revenue Code of 1986 is amended by striking
8 “7623(b)” and inserting “7623”.

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

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