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H. R. 9640

To amend the Internal Revenue Code of 1986 to provide for examination and disclosure with respect to Presidential income tax returns.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 2022

Mr. NEAL (for himself, Mr. DOGGETT, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. BLUMENAUER, Mr. KIND, Mr. PASCRELL, Mr. DANNY K. DAVIS of Illinois, Ms. DELBENE, Ms. CHU, Ms. MOORE of Wisconsin, Mr. KILDEE, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. BEYER, Mr. EVANS, Mr. SUOZZI, Mr. PANETTA, Mrs. MURPHY of Florida, Mr. GOMEZ, Mr. HORSFORD, Ms. PLASKETT, Mr. SCHNEIDER, Ms. SÁNCHEZ, Mr. HIGGINS of New York, and Ms. SEWELL) 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 provide for examination and disclosure with respect to Presidential income tax returns.

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 “Presidential Tax Fil-
5 ings and Audit Transparency Act of 2022”.

1 **SEC. 2. EXAMINATION AND DISCLOSURE WITH RESPECT TO**
2 **PRESIDENTIAL INCOME TAX RETURNS.**

3 (a) AUDIT.—Subchapter A of chapter 78 of the Inter-
4 nal Revenue Code of 1986 is amended by redesignating
5 section 7613 as section 7614 and by inserting after section
6 7612 the following new section:

7 **“SEC. 7613. EXAMINATION WITH RESPECT TO PRESI-**
8 **DENTIAL INCOME TAX RETURNS.**

9 “(a) IN GENERAL.—As rapidly as practicable after
10 the filing of any Presidential income tax return, the Sec-
11 retary shall conduct an examination to ascertain the cor-
12 rectness of such return and enforce the requirements of
13 this title with respect to the taxable year covered by such
14 return.

15 “(b) REPORTS.—

16 “(1) INITIAL REPORT.—Not later than 90 days
17 after the filing of a Presidential income tax return,
18 the Secretary shall disclose and make publicly avail-
19 able an initial report regarding the examination with
20 respect to such return. Such report shall include—

21 “(A) the name of the taxpayer,

22 “(B) an identification of the subparagraph
23 of subsection (c)(1) which describes such re-
24 turn,

25 “(C) the date that such return was filed,
26 and

1 “(D) the date on which the examination
2 with respect to such return commenced (or, if
3 such examination has not commenced as of the
4 date of such report, a detailed description of the
5 reasons that such examination has not com-
6 menced).

7 “(2) PERIODIC REPORTS.—Not later than 180
8 days after the disclosure of the report described in
9 paragraph (1) with respect to any Presidential in-
10 come tax return and not later than 180 days after
11 the most recent disclosure of a report described in
12 this paragraph with respect to such return, the Sec-
13 retary shall disclose and make publicly available a
14 periodic report regarding the examination with re-
15 spect to such return. Such report shall include—

16 “(A) the information described in subpara-
17 graphs (A) through (D) of paragraph (1),

18 “(B) a description of the status of the ex-
19 amination, including a description of the por-
20 tions of the examination which have been com-
21 pleted, which are in process, and which are an-
22 ticipated to take place, and

23 “(C) an estimate of the time frame for the
24 completion of the examination, including an
25 identification of factors which could alter such

1 time frame, reasonable estimates of the likeli-
2 hood of such factors (taking into account the
3 specific facts and circumstances of the examina-
4 tion), and the likely specific effects of such fac-
5 tors on such time frame.

6 Notwithstanding the preceding sentence, a periodic
7 report shall not be required under this paragraph
8 with respect to any return after the date on which
9 a final report is disclosed under paragraph (3) with
10 respect to such return.

11 “(3) FINAL REPORT.—Not later than 90 days
12 after the completion of the examination described in
13 subsection (a) with respect to any Presidential in-
14 come tax return, the Secretary shall disclose and
15 make publicly available a final report regarding such
16 examination. Such report shall include—

17 “(A) the information described in subpara-
18 graphs (A) through (C) of paragraph (1),

19 “(B) the date on which the examination
20 with respect to such return was completed,

21 “(C) a list of the audit materials (as de-
22 fined in section 6103(q)(2)) with respect to
23 such examination, and

24 “(D) a description (including the amount)
25 of each proposed adjustment, adjustment, and

1 controversy with respect to such examination
2 together with a description of how such pro-
3 posed adjustment or controversy was resolved
4 (or a statement that such proposed adjustment
5 or controversy was not resolved, as the case
6 may be).

7 For purposes of this paragraph, an examination
8 shall be treated as complete on the date that the
9 Secretary provides the taxpayer with a notice of defi-
10 ciency, or any closing document referred to in sec-
11 tion 6103(q)(2)(A)(v), with respect to such examina-
12 tion.

13 “(4) EXTENSION OF DUE DATE REPORT.—If a
14 request is made for an extension of the due date for
15 filing any Presidential income tax return, the Sec-
16 retary shall, not later than 90 days after such re-
17 quest is granted or denied, disclose and make pub-
18 licly available an extension of due date report with
19 respect to return. Such report shall include—

20 “(A) the information described in subpara-
21 graphs (A) and (B) of paragraph (1),

22 “(B) a statement that an extension of the
23 due date for the filing of such return has been
24 requested,

1 “(C) the date that such request was re-
2 ceived,

3 “(D) a statement of whether such request
4 has been granted or denied, and

5 “(E) the due date of such return (includ-
6 ing any extensions).

7 “(5) TREATMENT OF FAILURE TO FILE.—In
8 the case of a failure to file a Presidential income tax
9 return before the close of the 60-day period begin-
10 ning with the date prescribed for filing of such re-
11 turn—

12 “(A) the Secretary shall conduct the exam-
13 ination described in subsection (a) with respect
14 to the taxable year covered by the return to
15 which such failure relates,

16 “(B) reports made pursuant to this para-
17 graph shall include a statement that such re-
18 port is with respect to a return which the tax-
19 payer failed to file, and

20 “(C) this section and section 6103(q) shall
21 otherwise apply to such failure in the same
22 manner as if a return were filed at the close of
23 such period.

24 The application of this paragraph with respect to
25 any failure to file a Presidential income tax return

1 shall not prevent the application of this section with
2 respect to such return at such time as such return
3 may be filed.

4 “(6) PUBLIC AVAILABILITY.—For purposes of
5 this subsection, a document shall not be treated as
6 having been made publicly available unless made
7 available on the internet.

8 “(c) PRESIDENTIAL INCOME TAX RETURN.—For
9 purposes of this section—

10 “(1) IN GENERAL.—The term ‘Presidential in-
11 come tax return’ means any relevant income tax re-
12 turn of—

13 “(A) a President,

14 “(B) an individual who is married (within
15 the meaning of section 7703(a)) to a President
16 for the taxable year to which such return re-
17 lates,

18 “(C) any corporation or partnership which
19 is controlled by any individual described in sub-
20 paragraph (A) or (B) at any time during the
21 taxable year to which such return relates,

22 “(D) the estate of any person described in
23 (A) or (B) or any estate with respect to which
24 any person described in subparagraph (A), (B),
25 or (C) is an executor, or beneficiary at any time

1 during the taxable year to which such return
 2 relates, and

3 “(E) any trust with respect to which any
 4 person described in subparagraph (A), (B), (C),
 5 or (D) is a grantor, fiduciary or beneficiary, or
 6 for which another trust described in this sub-
 7 paragraph is a grantor or beneficiary, at any
 8 time during the taxable year to which such re-
 9 turn relates.

10 Such term shall include any schedule, attachment, or
 11 other document filed with such return.

12 “(2) RELEVANT INCOME TAX RETURN.—The
 13 term ‘relevant income tax return’ means, with re-
 14 spect to a President, any income tax return if—

15 “(A) any portion of the taxable year to
 16 which such return relates is during the period
 17 that such President is the President,

18 “(B) the due date for such return (includ-
 19 ing any extensions) is during such period, or

20 “(C) such return is filed during such pe-
 21 riod.

22 “(3) CONTROL.—For purposes of paragraph
 23 (1)(C)—

24 “(A) IN GENERAL.—Except as otherwise
 25 provided in this paragraph, control shall be de-

1 terminated under the rules of paragraphs (2) and
2 (3) of section 6038(e) (determined without re-
3 gard to subparagraphs (A) and (B) of such
4 paragraph (2) and without regard to subpara-
5 graph (C) of paragraph (3) thereof).

6 “(B) RESTRICTION ON FAMILY ATTRIBU-
7 TION.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), for purposes of apply-
10 ing subparagraph (A)—

11 “(I) section 318 shall applied
12 without regard to subsection
13 (a)(1)(A)(ii) thereof, and

14 “(II) section 267(c) shall applied
15 by treating the family of an individual
16 as including only such individual’s
17 spouse (in lieu of the application of
18 paragraph (4) thereof).

19 “(ii) EXCEPTION FOR RECENT TRANS-
20 FER TO FAMILY MEMBERS.—For purposes
21 of determining whether any corporation or
22 partnership is controlled by a President
23 under paragraph (1)(C) for any taxable
24 year, clause (i) shall not apply if such cor-
25 poration or partnership was controlled by

1 such President (after application of clause
2 (i)) at any time during the 4 immediately
3 preceding taxable years.

4 “(d) APPLICATION TO AMENDED RETURNS.—For
5 purposes of this section and section 6103(q), any amend-
6 ment or supplement to a return of tax shall be treated
7 as a separate return of tax and the determination of when
8 such amendment or supplement is filed, and whether such
9 amendment or supplement is a relevant income tax return,
10 shall be made without regard to the underlying return.”.

11 (b) DISCLOSURE.—Section 6103 of such Code is
12 amended by redesignating subsection (q) as subsection (r)
13 and by inserting after subsection (p) the following new
14 subsection:

15 “(q) DISCLOSURE WITH RESPECT TO PRESIDENTIAL
16 INCOME TAX RETURNS.—

17 “(1) IN GENERAL.—The Secretary shall dis-
18 close and make publicly available (within the mean-
19 ing of section 7613(b))—

20 “(A) each Presidential income tax return
21 (as defined in section 7613(c)),

22 “(B) each report described in section
23 7613(b), and

24 “(C) any audit materials with respect a re-
25 turn described in subparagraph (A).

1 “(2) AUDIT MATERIALS.—The term ‘audit ma-
2 terials’ means, with respect to any return:

3 “(A) Any of the following which are pro-
4 vided by the Secretary to the taxpayer (or any
5 designee of the taxpayer):

6 “(i) Any written communication which
7 identifies such return as being subject to
8 examination.

9 “(ii) Any written communication
10 which proposes the adjustment of any item
11 on such return, any report by an examiner
12 related to such proposed adjustment, and
13 any supervisory approval of any penalty
14 proposed as part of such adjustment.

15 “(iii) Any memorandum or report of
16 the Internal Revenue Service Independent
17 Office of Appeals with respect to such re-
18 turn, and any denial of any request de-
19 scribed in subparagraph (B).

20 “(iv) Any notice of deficiency with re-
21 spect to such return.

22 “(v) Any closing documents with re-
23 spect to the examination of such return,
24 including any closing agreement or no
25 change letter.

1 “(B) Any request for referral to the Inter-
2 nal Revenue Service Independent Office of Ap-
3 peals of any controversy with respect to such
4 return.

5 “(C) Any petition filed with the Tax Court
6 for a redetermination of any deficiency referred
7 to in subparagraph (A)(iv).

8 “(3) EXCEPTION FOR CERTAIN IDENTITY IN-
9 FORMATION.—The information disclosed and made
10 publicly available under paragraph (1) shall not in-
11 clude any identification number of any person (in-
12 cluding any social security number), any financial
13 account number, the name of any individual who has
14 not attained age 18 (as of the close of the taxable
15 year to which the return relates), the name of any
16 employee of the Department of the Treasury, or any
17 address (other than the city and State in which such
18 address is located).

19 “(4) TIMING OF DISCLOSURES.—Any informa-
20 tion required to be disclosed under paragraph (1)
21 shall be disclosed and made publicly available not
22 later than—

23 “(A) in the case of any income tax return
24 referred to in paragraph (1)(A), 90 days after
25 the date that such return is filed,

1 “(B) in the case of any report referred to
2 in paragraph (1)(B), the deadline specified in
3 section 7613(b) for disclosing such report, and

4 “(C) in the case of the audit materials re-
5 ferred to in paragraph (1)(C), 90 days after the
6 completion of the examination (within the
7 meaning of section 7613(b)(3)) with respect to
8 the return to which such audit materials re-
9 late.”.

10 (c) CLERICAL AMENDMENT.—Subchapter A of chap-
11 ter 78 of such Code is amended by redesignating the item
12 relating to section 7613 as an item relating to section
13 7614 and by inserting after the item relating to section
14 7612 the following new item:

“Sec. 7613. Examination with respect to Presidential income tax returns.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this subsection shall apply to returns, amendments, and
17 supplements filed (and failures to file returns which occur)
18 after the date of the enactment of this Act (and to reports
19 and audit materials with respect to such returns, amend-
20 ments, supplements, and failures).

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