

111TH CONGRESS  
1ST SESSION

# S. 2771

To amend the Internal Revenue Code of 1986 to limit the penalty for failure to disclose reportable transactions based on resulting tax benefits, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2009

Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to limit the penalty for failure to disclose reportable transactions based on resulting tax benefits, 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 “Small Business Pen-  
5 alty Relief Act of 2009”.

1 **SEC. 2. LIMITATION ON PENALTY FOR FAILURE TO DIS-**  
2 **CLOSE REPORTABLE TRANSACTIONS BASED**  
3 **ON RESULTING TAX BENEFITS.**

4 (a) IN GENERAL.—Subsection (b) of section 6707A  
5 of the Internal Revenue Code of 1986 is amended to read  
6 as follows:

7 “(b) AMOUNT OF PENALTY.—

8 “(1) IN GENERAL.—Except as otherwise pro-  
9 vided in this subsection, the amount of the penalty  
10 under subsection (a) with respect to any reportable  
11 transaction shall be 75 percent of the decrease in  
12 tax shown on the return as a result of such trans-  
13 action (or which would have resulted from such  
14 transaction if such transaction were respected for  
15 Federal tax purposes).

16 “(2) MAXIMUM PENALTY.—The amount of the  
17 penalty under subsection (a) with respect to any re-  
18 portable transaction shall not exceed—

19 “(A) in the case of a listed transaction,  
20 \$200,000 (\$100,000 in the case of a natural  
21 person),

22 “(B) in the case of any other reportable  
23 transaction, \$50,000 (\$10,000 in the case of a  
24 natural person).

25 “(3) MINIMUM PENALTY FOR LISTED TRANS-  
26 ACTIONS.—In the case of a listed transaction, the

1 amount of the penalty under subsection (a) with re-  
2 spect to such transaction shall not be less than  
3 \$10,000 (\$5,000 in the case of a natural person).”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to penalties assessed after Decem-  
6 ber 31, 2006.

7 **SEC. 3. REPORT ON TAX SHELTER PENALTIES AND CER-**  
8 **TAIN OTHER ENFORCEMENT ACTIONS.**

9 (a) IN GENERAL.—The Commissioner of Internal  
10 Revenue, in consultation with the Secretary of the Treas-  
11 ury, shall submit to the Committee on Ways and Means  
12 of the House of Representatives and the Committee on  
13 Finance of the Senate an annual report on the penalties  
14 assessed by the Internal Revenue Service during the pre-  
15 ceding year under each of the following provisions of the  
16 Internal Revenue Code of 1986:

17 (1) Section 6662A (relating to accuracy-related  
18 penalty on understatements with respect to report-  
19 able transactions).

20 (2) Section 6700(a) (relating to promoting abu-  
21 sive tax shelters).

22 (3) Section 6707 (relating to failure to furnish  
23 information regarding reportable transactions).

24 (4) Section 6707A (relating to failure to include  
25 reportable transaction information with return).

1           (5) Section 6708 (relating to failure to main-  
2           tain lists of advisees with respect to reportable  
3           transactions).

4           (b) ADDITIONAL INFORMATION.—The report re-  
5           quired under subsection (a) shall also include information  
6           on the following with respect to each year:

7           (1) Any action taken under section 330(b) of  
8           title 31, United States Code, with respect to any re-  
9           portable transaction (as defined in section 6707A(c)  
10          of the Internal Revenue Code of 1986).

11          (2) Any extension of the time for assessment of  
12          tax enforced, or assessment of any amount under  
13          such an extension, under paragraph (10) of section  
14          6501(c) of the Internal Revenue Code of 1986.

15          (c) DATE OF REPORT.—The first report required  
16          under subsection (a) shall be submitted not later than  
17          June 1, 2010.

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