DESCRIPTION OF THE CHAIRMAN'S MARK OF THE "TAXPAYER ASSISTANCE AND SERVICE ACT"

Scheduled for Markup
by the
SENATE COMMITTEE ON FINANCE
on July 30, 2026

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The Senate Committee on Finance has scheduled a committee markup on July 30, 2026 of the "Taxpayer Assistance and Service Act." This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the Chairman's mark.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Mark of the "Taxpayer Assistance and Service Act,"* July 28, 2026 (JCX-43-26). This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

TITLE I—TAX ADMINISTRATION AND CUSTOMER SERVICE

A. Digitization of Tax Returns and Correspondence

Present Law

Every citizen, whether residing in or outside the United States, and every resident of the United States within the meaning of section 7701(b) must file an income tax return if the individual has income that equals or exceeds the exemption amount.[2] Regulations issued by the Department of the Treasury ("Treasury") require individual taxpayers to make this return using a Form 1040, U.S. Individual Income Tax Return.[3] Similarly, every corporation subject to Federal income tax, regardless of the amount of its gross or taxable income for the taxable year, is required to file a return.[4] Various returns are also required to be submitted by certain employers, partnerships, estates, trusts, noncitizen nonresident individuals, and taxpayers subject to Federal gift tax, estate tax, generation-skipping transfer tax, excise taxes, and other miscellaneous Federal taxes.

In 1998, Congress declared a policy that (1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns, (2) the goal of the Internal Revenue Service ("IRS") should be to receive at least 80 percent of all returns electronically by 2007, and (3) the IRS should encourage private-sector competition to increase electronic filing.[5] Section 6011(f), also enacted in 1998, authorizes Treasury to advertise the benefits of electronic tax administration programs and to make payment of appropriate incentives for electronically-filed returns.

Treasury generally is authorized to prescribe regulations providing standards for determining which returns must be filed on magnetic media or in another machine-readable form.[6] However, except under certain circumstances, Treasury "may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts, to be other than on paper forms supplied by the Secretary."[7]

[2] Sec. 6012(a)(1); Treas. Reg. sec. 1.6012-1(a)(1).

[3] Treas. Reg. sec. 1.6012-1(a)(6).

[4] Sec. 6012(a)(2).

[5] The Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, sec. 2001.

[6] Sec. 6011(e). The statute uses the term "magnetic media," and applicable Treasury regulations specify that magnetic media includes electronic filing. Treas. Reg. sec. 301.6011-2(a)(1).

[7] Sec. 6011(e)(1). In this context, "Secretary" refers to the Secretary of the Treasury or his delegate. See sec. 7701(a)(11).

Description of Proposal

The proposal provides that any Federal tax return that is required to be filed or amendments to such return may be filed electronically, and if filed electronically, will be processed electronically by the Secretary of the Treasury (or delegate) ("Secretary").

The proposal requires the IRS to use optical character recognition ("OCR") technology (or any functionally similar technology) to transcribe (1) any return which is received by the IRS only in a paper form; or (2) any correspondence which is received by the IRS only in a paper form.

An exception to these requirements applies to OCR or functionally similar technology if the Secretary determines that the OCR technology or functionally similar technology is slower or less reliable than the process of manually transcribing the returns or correspondence received in paper form (or any other process normally used by the IRS).

Under the proposal, any such exception applies only if the Secretary provides a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 30 days of making a determination of the exception.

Effective Date

The proposal is effective for individual income tax returns received on or after January 1 of the first calendar year beginning more than 180 days after date of enactment.

The proposal is effective for estate tax returns or gift tax returns received on or after January 1 of the first calendar year beginning more than 24 months after the date of enactment.

The proposal is effective for any other return or correspondence received on or after January 1 of the first calendar year beginning more than 18 months after the date of enactment.

B. Establishment of Dashboard to Inform Taxpayers of Backlogs and Wait Times

Present Law

The Code provides for the appointment of a Commissioner of Internal Revenue ("Commissioner") to fulfill such duties and powers as prescribed by the Secretary.[8] Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes. Furthermore, in discharging his duties, the Commissioner is required to ensure that the employees of the IRS are familiar with, and act in accordance with taxpayer rights, including the right to be informed and the right to quality service.[9]

Description of Proposal

Under the proposal, the Secretary shall require the IRS to provide in real time on its public website, to the extent practical, separately with respect to each applicable phone number extension[10] the following information:

1. the number of callers connected to speak directly with a representative of the IRS;
2. the number of callers connected to speak with an automated system;
3. the number of callers who are waiting to be connected to speak directly with a representative of the IRS or an automated system;
4. the longest amount of time that any caller has been waiting to be connected to speak directly with a representative of the IRS; and
5. whether callback service is currently available, and if not, when such service is scheduled to be available.

This information must be displayed on an application or tool embedded on the website and must also include the estimated approximate wait-times to speak directly with a representative of the IRS.

The IRS is also required to provide an application programming interface on its public website that allows any person to access the information described in the five items listed above

[8] Sec. 7803(a).

[9] Secs. 7803(a)(3)(A), (B).

[10] An "applicable phone number extension" means any extension or application which may be reached by calling a phone number which is listed by the IRS on any website, publication, form, or instruction which is available to the public and operated by the IRS accounts management function, operated by the IRS automated collection function, managed by the IRS Joint Operations Center, managed and staffed by a contractor on behalf of the IRS, or received 200,000 or more calls during the preceding calendar year.

using automation, and to create an application or tool embedded on a website to display such information.

In addition, the IRS is required to provide a summary of the information described in the five items listed above with respect to the prior month, including the average and median length of calls; the average and median amount of time that callers spoke directly with a representative of the IRS; the number and percent of calls that were directed to an automated system; the number and percent of calls that were disconnected or terminated by the IRS; the number of callers who were transferred to another applicable phone number extension after the call was initially answered by a representative of the IRS along with the average and median amount of time that these callers were on hold following the transfer; and the number and percent of callers who indicated that they received the answers or service for which they were contacting the IRS.

The Secretary shall require the IRS to use technology to detect and screen out automated calls.

Separately, the IRS is required to report significant processing delays for categories of applicable items. An "applicable item" is each category of tax return, claim, statement, or other document filed with the IRS. A significant processing delay is generally the failure to process all such applicable items within 21 days of receipt. For any week in which there is a significant processing delay ("the applicable week"), the IRS is required to publicly list during the subsequent week, the earliest date of receipt for items that were processed during the applicable week.

Effective Date

The requirements of this section shall apply to periods beginning after the date which is 12 months after the date of enactment.

C. Expansion of Electronic Access to Information About Returns and Refunds

Present Law

See the discussion of present law in section I.B., above.

The IRS currently offers access to a variety of online tax tools available for individual taxpayers, businesses, and tax professionals, including online accounts for individual account information, the ability to track the status of amended individual returns, check the status of an individual income tax refund for the three most recent tax years, make a guest payment directly from a checking or savings account, check eligibility to set up a payment plan on amounts owed, check eligibility to apply for an Offer in Compromise, and others.[11]

Description of Proposal

Under the proposal, the Secretary must provide, through a website and a mobile application, individualized, specific, and up-to-date information to taxpayers regarding their tax returns and amended returns. The website or application must include information with respect to whether the IRS has received such return and entered such return into their systems, completed processing such return, including the date on which the IRS issued any refund of any overpayment of tax, if any, or suspended processing of the return. If a refund is issued, the IRS must include the estimated date on which the taxpayer can expect to receive such refund (if the refund will be issued by electronic fund transfer, the partial or full account number for such account and the name and routing number of the financial institution, or if the refund will be issued by paper check, the address to which the check will be mailed). If processing of the return was suspended, the IRS must include the reason for the suspension, and in the case of any information which was requested by the IRS, the information requested, the form and manner for submission, and the date on which such information is due to be submitted to the IRS.

Under the proposal, these requirements shall apply not later than January 1 of the first calendar year beginning more than 12 months after the date of enactment.

Effective Date

The proposal is effective on the date of enactment.

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[11] See https://www.irs.gov/help/tools (last visited July 24, 2026).

D. Expansion of Callback Technology

Present Law

See the discussion of present law in section I.B., above.

Description of Proposal

The proposal states that it is the sense of Congress that taxpayers contacting the IRS should have the option to receive a callback and that not later than calendar year 2028, the IRS should provide any taxpayer (including any taxpayer residing outside of the United States) the option to receive a callback for any call made by the taxpayer to an applicable phone number extension[12] which has not been answered within five minutes.

Effective Date

The proposal is effective on the date of enactment.

[12] An "applicable phone number extension" means any extension or application which may be reached by calling a phone number which is listed by the IRS on any website, publication, form, or instruction which is available to the public and operated by the IRS accounts management function, operated by the IRS automated collection function, managed by the IRS Joint Operations Center, managed and staffed by a contractor on behalf of the IRS, or which received 200,000 or more calls during the preceding calendar year.

E. Expansion of Online Accounts

Present Law

See the discussion of present law in section I.B., above.

Description of Proposal

Under the proposal, the Secretary shall make available a website and mobile application which, in a manner consistent with limitations under section 6103 of the Code, allows any taxpayer (including any taxpayer residing outside of the United States) to view any return,[13] document, notice, or letter (with the exception of any educational item with no legal effect) which, during the preceding six-year period,[14] was sent to the taxpayer by the IRS or filed with the IRS (1) by the taxpayer, (2) by a person described in section 6103(c) with respect to such taxpayer,[15] or (3) with respect to such taxpayer in accordance with section 6103(e).[16] In the case of a representative[17] of a taxpayer who is authorized to practice before the Treasury Department, a tax return preparer[18] with an identifying number,[19] or a qualified reporting agent, the Secretary shall permit such representative, preparer, or agent, to access such information, to the extent authorized by the taxpayer. The Secretary shall make available for viewing any return, document, notice, or letter (as described above) by the taxpayer, any representative, tax return preparer or qualified reporting agent to the extent authorized by the taxpayer (as described above), as soon as is practicable and pursuant to regulations prescribed by the Secretary. A qualified reporting agent is a person who is properly authorized as an agent to sign and file employment tax returns,[20] make related payments and deposits, and perform such other acts on behalf of a taxpayer under procedures and requirements set forth by the Secretary, which has met such other requirements as may be established by the Secretary, and for which authorization has not been revoked or suspended by the Secretary pursuant to procedures established by the Secretary.

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[13] As defined in section 6103(b)(1).

[14] This period shall not include any years ending before the date of enactment.

[15] Section 6103(c) permits the IRS to disclose returns and return information to a designee of the taxpayer or pursuant to the taxpayer's consent.

[16] Under section 6103(e) a return of a person upon written request can be inspected or disclosed to certain persons having a material interest.

[17] Section 330, Title 31.

[18] Sec. 7701(a)(36).

[19] Sec. 6109(a)(4).

[20] An "employment tax return" includes any return required to be filed by an employer to report the obligations of the employer and its employees under section 3101, 3111, 3301, or 3402, as well as other returns as designated by the Secretary.

The Secretary shall also make available a website and mobile application which allows the taxpayer to respond to any document, notice, or letter sent to the taxpayer by the IRS by uploading or otherwise transmitting the taxpayer's response. The Secretary shall permit any representative, preparer, or agent of the taxpayer (as described above) to transmit such information, to the extent authorized by the taxpayer. The website and mobile application will allow a representative, tax return preparer, or qualified reporting agent to access information for multiple taxpayers without any requirement to individually and separately access the account of each individual taxpayer.

Prior to making such website and mobile application available, the Secretary shall conduct focus groups with taxpayers and tax professionals to ensure that any amounts appropriated or otherwise made available for such purposes are expended appropriately.

In order to prevent unauthorized disclosure of return information by persons designated by taxpayers, the Secretary shall establish a program to investigate and address any access, use, or disclosure of return information (as defined in section 6103(b)) by any person which is in excess of the permitted authorization under the proposal, as well as any related misconduct. The Secretary shall also publish annually on the public website of the IRS, the actions undertaken pursuant to this program, such as the number of complaints investigated, the number of persons whose access was revoked, and other relevant statistical data.

Under the proposal, the website or application shall be made available not later than January 1 of the first calendar year beginning more than 18 months after the date of enactment. The program to investigate and address unauthorized disclosure of return information shall also be established not later than January 1 of the first calendar year beginning more than 18 months after the date of enactment.

Effective Date

The proposal is effective on the date of enactment.

F. Automation of Refund Offset Bypass

Present Law

The Secretary generally is required to apply a taxpayer's overpayment to outstanding Federal tax liabilities and other legally enforceable debts before issuing a refund.[21] Present law contains no explicit authority directing the Secretary to bypass offsets against Federal tax liabilities on account of hardship or to limit the amount of an offset where refundable credits are involved.[22] IRS does provide such relief from offset administratively on a case-by-case basis, and no statutory mechanism limits the amount of an offset for taxpayers eligible for refundable credits such as the earned income tax credit ("EITC").

Description of Proposal

The proposal creates a mandatory offset bypass for certain low-income taxpayers. Specifically, in the case of an overpayment for a taxable year in which an applicable taxpayer is allowed an EITC, the Secretary is required to refund the amount of the overpayment up to the amount of the EITC, overriding only the offset authority under section 6402(a). An "applicable taxpayer" is defined as a taxpayer whom the Secretary had classified as currently not collectible (within the meaning of section 6343(e)) at the time the taxpayer's overpayment arises (for example, upon filing of the return). The bypass is "subject to subsections (c), (d), (e), and (f)" of section 6402, and therefore the existing rules that instruct the IRS how to apply non-tax offsets continue to apply to any remaining amount of the overpayment. Those subsections govern offsets for past-due child support, Federal agency non-tax debts, State income tax obligations, and Federal unemployment compensation debts.

Effective Date

The proposal applies to offsets made after the date that is 12 months after the date of enactment.

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[21] Sec. 6402(a).

[22] *Ibid*. IRS administrative guidance provides limited, non-statutory offset-bypass relief in certain hardship cases. Internal Revenue Manual, *Manual Refunds*, 21.4.4 (August 27, 2025).

G. Installment Agreement Fees Eliminated for Certain Individuals

Present Law

Under present law, the IRS is authorized to enter into installment agreements with taxpayers to allow payment of outstanding tax liabilities over time.[23] The Code authorizes the IRS to charge user fees for entering into an installment agreement, and provides limited circumstances in which they may be reduced or waived.[24] A reduced fee is available for low-income taxpayers who enter into a direct-debit installment agreement, and present law permits reimbursement of fees for certain low-income taxpayers upon successful completion of the agreement. Low-income taxpayers who cannot use direct debit are required to submit the standard user fee upfront, which is reimbursed upon successful completion of the agreement.

Description of Proposal

The proposal amends the Code to eliminate user fees for installment agreements for certain low-income taxpayers. Under the proposal, no fee may be imposed for entering into an installment agreement if the taxpayer's adjusted gross income for the most recent taxable year for which information is available does not exceed 250 percent of the applicable poverty level, as determined by the Secretary. The proposal does not change fees applicable to taxpayers with income above the threshold.

Effective Date

The proposal applies to installment agreements entered into after the date that is 12 months after the date of enactment.

[23] Sec. 6159(a).

[24] Sec. 6159(f).

H. Individuals Facing Economic Hardships Informed of Collection Alternatives

Present Law

Under present law, taxpayers who are unable to fully pay their tax liabilities may be eligible for various forms of collection relief, including partial-payment installment agreements[25] and offers-in-compromise.[26] Eligibility for these forms of relief is determined based on the taxpayer's financial condition and ability to meet basic living expenses. Present law does not require the IRS to proactively identify taxpayers who may be experiencing economic hardship or to inform such taxpayers of alternative collection options when they request an installment agreement.

Description of Proposal

The proposal requires the Secretary, within 12 months of enactment, to establish a program to identify taxpayers who are reasonably likely to be experiencing economic hardship and who also have unpaid tax liabilities. When such a taxpayer requests an installment agreement, the IRS must provide information about other available collection alternatives, including partial-payment installment agreements, offers-in-compromise, and currently not collectible status. Determinations of likely hardship are required to be made using income and asset information from the most recent return or report available to the IRS, as well as the national and local allowance schedules referenced in the Code.[27]

Not later than two years after enactment, the Secretary, after consulting with the National Taxpayer Advocate, is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance evaluating the accuracy of the hardship-identification program, analyzing whether the procedures could appropriately be applied for other purposes, and providing data on (i) the taxpayers identified as reasonably likely to be experiencing hardship; (ii) the collection alternatives offered to those taxpayers; and (iii) the status of their tax liabilities.

Effective Date

The proposal requires implementation within 12 months after the date of enactment.

[25] Sec. 6159.

[26] Sec. 7122.

[27] Sec. 7122(d)(2)(A).

I. Quarterly Notices to Certain Taxpayers with Delinquencies

Present Law

The Code requires the IRS to send taxpayers with outstanding tax delinquencies an annual reminder notice stating the amount of unpaid tax and associated penalties and interest.[28] There is no statutory requirement that such notices be provided more frequently, nor does present law require the IRS to include information estimating future penalties and interest or describing available taxpayer assistance programs.

Description of Proposal

The proposal amends the Code to require the IRS to send notices not less often than quarterly (rather than annual notices) to taxpayers with outstanding tax delinquencies, except in certain circumstances. The quarterly notices must include (1) an estimate of penalties and interest that may accrue if the liability is not fully paid within the remaining collection period and (2) information on programs and services that may assist the taxpayer. The proposal also creates exceptions to the quarterly-notice requirement for taxpayers who are in an active installment agreement, have an accepted offer-in-compromise, or have been determined to be currently not collectible.

Effective Date

The proposal is effective on the date which is 24 months after the date of enactment.

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[28] Sec. 7524.

J. Low-Income Taxpayer Clinic Funding Unlocked

Present Law

The Code provides that the Secretary is authorized to award matching grants to further the development, expansion, or continuation of certain qualified low-income taxpayer clinics.[29] Eligible clinics are those that charge no more than a nominal fee to either represent low-income taxpayers in controversies with the IRS or provide tax information to individuals for whom English is a second language. No clinic can receive more than $200,000 per year.[30] Furthermore, clinics are required to match 100 percent of the grant funds received.[31] Matching funds may include the salary (including fringe benefits) of individuals performing services of the clinic, and the cost of equipment used in the clinic. Indirect expenses, including general overhead of the institution sponsoring the clinic, are not to be counted as matching funds.

A qualified low-income taxpayer clinic includes (1) a clinical program at an accredited law, business, or accounting school, in which students represent low-income taxpayers in tax controversies, or (2) an organization exempt from tax under Code section 501(c) which either represents low-income taxpayers or provides referrals to qualified representatives. A low-income taxpayer is an individual whose income does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

Description of Proposal

Under the proposal, low-income taxpayer clinics generally continue to be required to match 100 percent of grant funds received. However, the Secretary is granted authority to reduce the matching requirement from 100 percent to as low as 25 percent if the Secretary determines that such percentage would expand the coverage of the low-income taxpayer clinic to additional taxpayers.

The proposal also includes two technical amendments: eliminating the aggregate limitation of $6 million per year under section 7526(c)(1) and eliminating the $100,000 limitation on annual grants to a clinic under section 7526(c)(2).

Effective Date

The proposal is effective for calendar years beginning after the date of enactment.

[29] Sec. 7526.

[30] Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Div. E, Title I, December 29, 2022.

[31] Sec. 7526(c)(5).

K. Chief Counsel Reviews of Offers-in-Compromise Streamlined

Present Law

The IRS is authorized to enter into offers-in-compromise under which the taxpayer and Federal government agree that a tax liability may be satisfied by payment of less than the full amount owed.[32] An offer-in-compromise may be accepted on one of three grounds: (1) doubt as to liability, available in cases in which the validity of the actual tax liability is in question; (2) doubt as to collectability based on lack of sufficient assets from which the tax, interest, and penalties can be paid in full; or (3) effective tax administration, applicable in a case in which collection in full would cause the taxpayer economic hardship such that compromise rather than collection would better encourage tax compliance.[33] In addition, certain qualified offers may be deemed accepted if they remain pending without rejection 24 months after the offer was submitted.[34]

Regardless of the basis of the proposed offer, a publicly available report of the accepted offer is prepared. If the unpaid tax liabilities total $50,000 or more, the publicly available report on the accepted offer must include a written opinion from the Office of Chief Counsel for the IRS ("Chief Counsel"), stating the reasons for the compromise, the amounts of assessed tax, penalties and interest, and the amounts actually paid pursuant to the offer-in-compromise.[35]

In general, a taxpayer is required to provide a user fee for processing an offer-in-compromise.[36] Taxpayers making a lump sum offer-in-compromise must also include a nonrefundable payment of 20 percent of the lump sum with the initial offer (herein, "upfront partial payment").[37] Taxpayers seeking an offer-in-compromise involving periodic payments must provide a nonrefundable payment of the first installment that would be due if the offer were accepted.[38]

Low-income taxpayers are exempt from the user fee and upfront partial payment requirements with respect to any offer-in-compromise. A low-income taxpayer is defined as an individual whose adjusted gross income for the most recent taxable year for which information is available does not exceed 250 percent of "the applicable poverty level" as determined by the

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[32] Sec. 7122.

[33] Treas. Reg. sec. 1.7122-1(b). For this purpose, economic hardship is defined under Treas. Reg. sec. 301.6343-1.

[34] Sec. 7122(f).

[35] Sec. 7122(b); Treas. Reg. sec. 1.7122-1(e)(6). The report is made on Form 7249, available at https://www.irs.gov/pub/irs-utl/f7249-2022-sample.pdf.

[36] Treas. Reg. sec. 300.3(b), as amended T.D. 9894, 85 FR 14572, March 13, 2020.

[37] Sec. 7122(c)(1)(A).

[38] Sec. 7122(c)(1)(B).

Secretary.[39] In addition, no fee will be charged if an offer is based solely on doubt as to liability.[40]

Description of Proposal

The proposal rescinds the requirement to include an opinion from the Chief Counsel in the public report on offers to compromise liabilities of $50,000 or more. The requirement for an opinion of Chief Counsel in the public record is limited to cases in which the Secretary determines there are significant legal issues.

Effective Date

The proposal is effective for offers pending on date of enactment as well as those submitted on or after the date of enactment.

[39] Sec. 7122(c)(3), which codified a prior regulatory exception for low-income applicants, at Treas. Reg. sec. 300.3(b)(ii).

[40] Treas. Reg. sec. 300.3(b)(i).

L. Modification of Procedural Requirements for Penalties and Disallowance Periods

Present Law

Under present law, before the IRS may assess certain penalties, the Code requires that the initial determination of the penalty be personally approved in writing by the immediate supervisor of the individual making that determination.[41] No definition of "initial determination" is provided, nor does the Code specify when the requisite supervisory approval must be signed. The provision identifies the immediate supervisor of the person initially determining the penalty as the party whose approval is required, although it authorizes the Secretary to designate a higher-level official to provide the requisite approval.

In resulting litigation over these restrictions on assessing certain penalties, the United States Tax Court ("Tax Court") established varying benchmarks for the point at which an "initial determination" occurs that could require the Secretary to produce evidence of compliance with the supervisory approval requirement, even if the Secretary does not bear the burden of proof as to the merits of the penalty.[42] These rules have been applied by the various courts without regard to efforts made to comply with standards as they existed at the time of the examination of years before the court.[43] Because the Tax Court is a court of national jurisdiction, its cases have been appealed to multiple circuits based on residence of the taxpayer in the case, with the result that there is a split of authority among the circuits.[44]

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[41] Sec. 6751(b).

[42] *Chai v. Commissioner*, T.C. Memo. 2015-42, rev'd (2nd Cir. 2017); *Graev v. Commissioner*, 149 T.C. 485, 492–93 (2017), supplementing and overruling in part 147 T.C. 460 (2016) (supervisory approval could occur at any point before the assessment was made); *Clay v. Commissioner*, 152 T.C. 223, 249–50 (2019), (section 6751(b) requirement was not satisfied because approval was not obtained before a communication that advised the taxpayer that penalties would be proposed and gave the taxpayer the right to appeal them with Appeals), appeal on other issues aff'd, 990 F.3d 1296 (11th Cir. 2021); *Belair Woods, LLC v. Commissioner*, 154 T.C. 1, 15 (2020) (IRS letter and summary report, setting forth the tentative proposed adjustments and inviting taxpayer to a conference to discuss them, was not the initial determination of a penalty that required prior supervisory approval; instead the 60-day letter was the initial determination of the penalties and the IRS satisfied section 6751(b)(1) for three of the penalties asserted by obtaining written supervisory approval for the penalties before the 60-day letter was issued).

[43] See Chief Counsel Notice 2018-006, June 6, 2018, discussing various scenarios in which the provisions of subsection 6751(b) could be at issue. See *Beland v. Commissioner*, 156 T.C. No.5 (2021) (granting taxpayer's motion for partial summary judgment that a fraud penalty was not timely where the supervisory approval was signed August 21, 2015, after a revenue agent report was provided to the taxpayer during a summons administration conference convened on August 19, 2015, citing the standards first articulated in *Chai v. Commissioner*, 851 F.3d 190, and *Graev v. Commissioner*, 149 T.C. 485, in 2017).

[44] Contrast the Second Circuit opinion in *Chai v. Commissioner*, 851 F.3d 190, 220–221 (referring to the task of determining whether a specific scenario is a "consequential moment" in forming IRS position on asserting a penalty) with *Kroner v. Commissioner*, No. 20-13902 (11th Cir. 2022) (holding that approval is timely if provided before the penalty is assessed, interpreting "initial determination" to describe what is subject to approval, not a timing requirement) and *Laidlaw's Harley Davidson Sales, Inc. v. Commissioner*, 29 F.4th 1066 (9th Cir. 2022) (holding that the statute requires approval before the assessment of a penalty or, if earlier, before the relevant supervisor loses discretion whether to approve the penalty assessment).

Two groups of penalties are outside the scope of the requirement for prior written supervisory approval. First, several delinquency penalties as well as two accuracy related penalties are specifically identified as exempt from the requirement.[45] Second, those penalties "automatically calculated through electronic means" are also exempt from the requirement of prior supervisory approval. The Tax Court has held that such standard is met if a penalty or addition is determined by a computer program without human review, including accuracy-related penalties under sections 6662(a) and (b).[46]

Present law also requires supervisory approval for certain other proposed administrative actions relating to disallowances, including disallowances of credits or refund claims when such disallowances are issued through specific IRS notices.[47] The Code specifies procedural timeframes during which the IRS is required to act but does not expressly coordinate or standardize supervisory-approval requirements across all penalty and disallowance actions.

Description of Proposal

The proposal revises section 6751(b) to modify and clarify when supervisory approval is required for penalties and certain disallowance determinations. The proposal provides that supervisory approval is required to be obtained before the IRS issues a notice to a taxpayer proposing a penalty or disallowance that allows for administrative or judicial review. The proposal also defines "disallowance period" for certain refundable credits and provides that such disallowance periods require supervisory approval even if calculated through electronic means. In addition, beginning 24 months after enactment and annually thereafter, the Secretary is required to publish a report on all penalties assessed during the preceding calendar year, including data on each IRS organizational unit involved in assessment, review, and enforcement, and the progression and final outcomes of those penalties.

Effective Date

The proposal applies to notices issued after the date that is one year after the date of enactment.

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[45] Section 6751(b)(2) specifically excepts sections 6651, 6654, and 6655 (delinquency penalties for failure to pay tax and estimated taxes), accuracy related penalties under section 6662(b)(9) (overstatement of charitable deduction under section 170(p)), and section 6662(b)(10) (disallowance of charitable deduction under section 170(h)(7)).

[46] *Walquist v. Commissioner*, 152 T.C. No. 3 (2019).

[47] IRS guidance requires supervisory approval before asserting multi-year credit disallowance bans. Internal Revenue Manual 4.19.13.7.1.1, *Supervisory Approval of Bans* (January 23, 2026).

M. Return of Amounts Collected by IRS in Excess of Accepted Offer-in-Compromise Amount

Present Law

The IRS is authorized to enter into offers-in-compromise under which the taxpayer and the Federal government agree to settle a tax liability for less than the full amount owed.[48] An offer-in-compromise may be accepted on one of three grounds: (1) doubt as to liability, when the validity of the underlying tax liability is in question; (2) doubt as to collectability, when the taxpayer lacks sufficient assets to pay the full amount of tax, interest, and penalties; or (3) effective tax administration, when full collection would cause economic hardship such that compromise better promotes overall tax compliance.[49]

Once an offer-in-compromise is accepted, the taxpayer is required to satisfy the terms of the agreement, and the IRS generally ceases further collection activity on the compromised liabilities except as provided in the offer. The Code does not expressly require the IRS to return amounts collected after acceptance of an offer-in-compromise if those amounts exceed the compromised amount, nor does it establish a procedure to notify taxpayers of refund amounts inadvertently collected after an offer is accepted.

Description of Proposal

The proposal requires the Secretary to return any amounts collected after an offer-in-compromise is accepted that exceed the payments still owed under the agreement, unless the parties have agreed otherwise or the Secretary determines the offer is in default and elects to terminate the compromise. The proposal also updates the levy-release rules to require the Secretary to return any extra amounts collected after an offer-in-compromise is accepted, subject to the same exception for cases in which the parties have agreed otherwise or the compromise is in default and the Secretary elects to terminate the compromise.

Effective Date

The proposal applies to offers-in-compromise accepted after the date of enactment.

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[48] Sec. 7122.

[49] Treas. Reg. sec. 1.7122-1(b). For this purpose, economic hardship is defined under Treas. Reg. sec. 301.6343-1.

N. Extension of Period for Return of Amounts Subject to Wrongful Levy

Present Law

If the IRS wrongfully levies property, the Code allows the owner to seek the return of the property or the amount realized from its sale.[50] This request is generally required to be made within two years of the date the levy occurred. Under present law, the limitations period may differ depending on whether the levy was served by mail[51] or by electronic means,[52] because those methods are treated as occurring on different dates for purposes of starting the two-year period. Present law does not address situations where the IRS receives money attributable to a wrongful levy after the levy date, such as delayed remittances or sale proceeds transferred at a later time.

Description of Proposal

The proposal extends and clarifies the period for requesting the return of money wrongfully levied by replacing the reference to "the date of such levy" with "the date the Secretary received any such amount." This change ensures that the two-year period begins when the IRS actually receives the money sought to be returned, rather than when the levy was executed.

Effective Date

The proposal applies to money levied upon, or amounts received from the sale of property, after the date that is 12 months after enactment.

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[50] Sec. 6343(b).

[51] Treas. Reg. sec. 301.6331-1(c) (the date of levy is the date the levy is delivered to the person in possession of the property).

[52] IRM 5.11.7.3.7(2) (October 22, 2024) (the levy date is tied to the system-generated transmission date, rather than a physical delivery date or the date the funds are received), available at https://www.irs.gov/irm/part5/irm_05-011-007r.

O. Reports to Congress

Present Law

Present law does not require the IRS to report to Congress on its implementation of taxpayer service, or administrative reforms of the type contained in this bill. Present law also does not mandate recurring reports on IRS efforts to identify, prevent, and address various forms of tax fraud.

Present law does require the National Taxpayer Advocate ("NTA") to submit annual reports to Congress that identify the most serious problems encountered by taxpayers in their dealings with the IRS and propose administrative and legislative actions to mitigate such problems.[53] In addition, present law requires the IRS to conduct and publish an annual report analyzing the sources of complexity in the administration of the Federal tax laws.[54]

Description of Proposal

The proposal requires the Secretary, after consulting with the National Taxpayer Advocate, the Treasury Inspector General for Tax Administration ("TIGTA"), and the Government Accountability Office ("GAO"), to submit a report to the House Ways and Means Committee and the Senate Finance Committee within two years of enactment describing IRS actions to implement this title, including successes, challenges, and any legislative recommendations. The proposal also requires the Secretary to submit an annual report on IRS efforts to identify, prevent, and resolve each type of tax fraud, including first-person fraud and stolen identity refund fraud. The first such annual report is required to be submitted not later than 12 months after the date of enactment.

The annual report is required to include: (i) a detailed description, timeline, and analysis of any efforts undertaken by the IRS and any of the other members of the Security Summit during the most recent filing season, to address and prevent each type of tax fraud, including all information or guidance exchanged among participants such as any "be on the lookout" alerts or other warnings, updated guidelines or restrictions, threat analyses, data or analytics, and other actionable threat information and any recommendations among Summit members regarding improvements to fraud detection, analytics, information sharing, and collaboration; (ii) a detailed description and timeline of IRS interactions with tax-filing providers that are not Security Summit participants, including any information or guidance shared with or received from such providers regarding each type of fraud, and recommendations related to improving fraud prevention, data and analytics, information sharing, and collaboration; and (iii) for the most recent filing season, fraud-specific numerical data and analysis for each form of tax fraud identified by the IRS, including data by tax form (including amended returns), by method of filing, and the total dollar amount of fraudulent refund claims, distinguishing amounts erroneously disbursed from amounts identified and stopped before disbursement.

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[53] Sec. 7803(c)(2).

[54] IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206, sec. 4022, July 22, 1998.

The proposal requires that all data included in the annual report be made publicly available on the IRS website with appropriate redactions.

The proposal clarifies that the National Taxpayer Advocate's annual report does not satisfy the IRS's separate obligation under section 4022 of the IRS Restructuring and Reform Act of 1998 to conduct and publish an annual analysis of sources of tax-law complexity.

Effective Date

The proposal is effective on the date of enactment.

TITLE II—AMERICAN CITIZENS ABROAD

A. Report on Combined Tax and Foreign Bank and Financial Account Reporting

Present Law

The Secretary has authority to obtain access to information about foreign financial assets owned by residents of the United States under the Bank Secrecy Act of 1970 (the "Bank Secrecy Act")[55] as well as the Code. With respect to foreign financial accounts and assets, the Bank Secrecy Act and the Code both require self-reporting (reporting by the holder) and third-party information reporting (reporting by a financial intermediary).

Reporting under the Bank Secrecy Act

The Financial Crimes Enforcement Network ("FinCEN"), a bureau of the Department of the Treasury, administers the reporting under the Bank Secrecy Act as part of its activities related to anti-money laundering and countering the financing of terrorism. Individual taxpayers are required to file reports of foreign financial accounts (FBAR).

FBAR reporting

A citizen or resident of, or person doing business in, the United States is required to keep records and file an FBAR[56] when that person enters a transaction or maintains a relationship (*e.g.*, an account) with a foreign financial entity (including a foreign bank or foreign trust).[57] The FBAR must be filed on April 15 of the year following the year in which the aggregate value of all foreign financial accounts in which the person has a financial interest or over which the person has signature or other authority exceeds $10,000.[58] Despite the filing date, the FBAR is neither part of the Federal income tax return nor filed in the same office as that return; as a result, the FBAR is not considered "return information" for purposes of Code section 6103, allowing FinCEN to share the information with other law enforcement agencies. FinCEN has delegated to the IRS certain authority to administer and enforce FBAR reporting.[59]

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[55] 31 U.S.C. secs. 5311-5314e and 5316-5332e; 12 U.S.C. secs. 1829b and 1951-1959e. With the Bank Secrecy Act, Congress intended to provide enforcement tools necessary "to cope with the problems created by the so-called secrecy jurisdictions." H.R. Rep. No. 975, 91st Cong., 2d Sess. 19 (1970). Those tools include mandatory reporting by financial institutions and account holders on a broad range of financial activity, including reports on currency transactions, suspicious activity, and foreign financial transactions to ensure the reports "are highly useful in … criminal, tax, or regulatory investigations, risk assessments, or proceedings." 31 U.S.C. 5311.

[56] FinCEN Report 114, "Report of Foreign Bank and Financial Accounts" (the "FBAR").

[57] 31 USC sec. 5314.

[58] 31 C.F.R. sec. 1010.350.

[59] 31. C.F.R. sec. 1010.810(g).

Failure to file the FBAR is subject to both criminal and civil penalties. Willful failure to file an FBAR may be subject to penalties in amounts not to exceed the greater of $100,000 or 50 percent of the amount in the account at the time of the violation.[60] A non-willful, but negligent, failure to file is subject to a penalty of $10,000 for each negligent violation.[61] Regulations provide that the failure-to-file penalty is asserted per account that was subject to reporting, not the number of reports required. In a case involving non-willful failure to file, the Supreme Court held that the penalty is based on each report that includes a non-willful but negligent error.[62] The penalty may be waived if (1) there is reasonable cause for the failure to report and (2) the amount of the transaction or balance in the account was properly reported. In addition, serious violations are subject to criminal prosecution, potentially resulting in both monetary penalties and imprisonment.[63] Civil and criminal sanctions are not mutually exclusive.

Reporting foreign financial assets under the Code

In addition to the Bank Secrecy Act, the Code requires reporting with respect to financial interests, with special provisions that focus on reporting on cross-border transactions or foreign financial interests. These international information reporting provisions include sections 6038 through 6039F, which require the holder of the interest to report at risk of significant penalties, and third-party reporting under sections 6046A (interests in foreign partnerships) and 6048 (interests in foreign trusts).

Section 6038D is frequently described as duplicative of the FBAR reports. While similar to FBAR in that it requires identifying certain foreign financial assets contemporaneously with filing an income tax return, the thresholds and specific assets covered vary from that required in FBAR. Under section 6038D, U.S. individuals with foreign financial accounts or assets exceeding $50,000 in value must disclose such assets on their Federal income tax returns. The reporting threshold increases depending on the taxpayer filing status (single, married filing separately, or filing jointly) as well as where the taxpayer resides.[64] To the extent required by regulations, any domestic entity that such individuals used to hold such assets, directly or indirectly, must also report.[65] Failure to do so results in both a failure to disclose penalty as well as an increase in any otherwise applicable accuracy-related penalty under section 6662 for a

[60] 31 U.S.C. sec. 5321(a)(5)(C).

[61] 31 U.S.C. sec. 5321(a)(5)(B).

[62] *Bittner v. United States*, 143 S. Ct. 713, 215 L. Ed 1 (2023).

[63] 31 U.S.C. sec. 5322(a) and (b) (willful failure to file is punishable by a fine up to $250,000, imprisonment for five years, or both; either or both of those punishments may double if the violation occurs in conjunction with certain other violations).

[64] The thresholds applicable to individuals may vary between $50,000 and $600,000. Treas. Reg. sec. 1.6038D-2.

[65] Treas. Reg. secs. 1.6038D-1 to -8 (on the scope of reporting required, the threshold values triggering reporting requirements, and the method for valuing assets).

deficiency in tax attributable to such asset. A special limitations period for assessment of additional tax attributable to an asset that is subject to such reporting may also apply.[66]

<u>Divergence between FBAR and Code requirements</u>

As described above, the reporting requirements (including filing thresholds) differ for reporting under the Code and FBAR filings, and the assets required to be reported differ. FBAR is limited to foreign financial accounts, while Code reporting is broader under the international information reporting provisions described above. Even with respect to accounts held at foreign financial institutions, the reporting required by the Code differs from that required for FBAR. One area of discrepancy is accounts holding virtual currency or digital assets. Since 2013, FinCEN has required that persons administering, exchanging, or using "virtual currencies" comply with certain Bank Secrecy Act reporting requirements, such as suspicious activity reports and currency transaction reports, but did not extend that requirement to FBAR.[67] In 2020, FinCEN announced that FinCEN intends to propose amendments to the regulations implementing the Bank Secrecy Act (BSA) regarding FBAR to include virtual currency as a type of reportable account.[68] Until such rules are promulgated, accounts that hold only virtual currency are not reportable accounts, but accounts holding virtual currency as well as other financial assets are required to be reported.

In 2021, Congress codified FinCEN guidance on digital assets by means of the new definition of "monetary instruments." That definition now encompasses, to the extent provided by the Secretary in regulations, "value that substitutes for any monetary instrument" as otherwise specified in the statute,[69] but does not cover all entities subject to the BSA. Description of Proposal

Within 180 days of date of enactment, the proposal requires the Secretary to study and report to Congress on how to achieve the goals of (1) combining and simplifying the international information reporting requirements under both the Code and the Bank Secrecy Act, and (2) eliminating duplicative requests for information from nonresident U.S. citizens, with input from the National Taxpayer Advocate and nonresident U.S. citizens. In the report, the

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[66] Sec. 6501(e)(1)(A)(ii).

[67] FinCEN Guidance on the Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies (FIN-2013-G001, March 18, 2013). See also FinCEN Guidance on the Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies (FIN-2019-G001, May 9, 2019) ("2019 CVC Guidance").

[68] Notice 2020-2; 31 CFR 1010.350.

[69] 31 U.S.C. sec. 5312(a)(3), defining "monetary instruments" for purposes of Subchapter II "Records and Reports on Monetary Instruments Transactions," as amended by section 6101(d)(1)(C) of National Defense Authorization Act for Fiscal Year 2021, Title LXIV, Pub. L. No. 116-283. Note that the expansion of the definition does not extend to reporting by nonfinancial trade or business. See 31 U.S.C. sec. 5331 (definition of currency for purposes of reports by parties in a nonfinancial trade or business is limited to coins, currency, including foreign currency and monetary instruments with a face value of less than $10,000.)

Secretary is to identify actions taken by the Secretary as a result of the study as well as statutory barriers to achieving the goals and make recommendations for necessary legislative changes.

<u>Effective Date</u>

The proposal is effective on date of enactment.

B. Study and Reports on Simplification

Present Law

U.S. citizens residing abroad are often subject to the tax administrations of both the United States and their country of residence. The United States taxes its citizens and residents on their worldwide income, regardless of whether the source of the income is foreign or domestic, while most foreign jurisdictions impose tax based on residence. As a result, both the foreign jurisdiction and the U.S. may tax the income of the U.S. citizen abroad.

Several measures mitigate the extent to which a U.S. citizen abroad is subject to double taxation of foreign-source income. The measures include a credit for foreign income taxes paid with respect to the income[70] and the exclusion from gross income of certain foreign earned income and foreign housing costs for qualified individuals.[71] There may also be benefits of a bilateral treaty between the United States and the foreign jurisdiction.

For example, special rules apply to foreign currency gain or loss attributable to certain financial transactions to account for economic exposure to changes in exchange rates. Because the U.S. dollar is the functional currency[72] for the taxpayer residing abroad, the taxpayer must track property acquisitions and dispositions made in a foreign currency as well as depositing wages paid in a foreign currency in a U.S. financial account.[73]

In addition to potential additional tax burden, additional reporting obligations may apply based on working or investing abroad. The range of potential international information reporting obligations are discussed in more detail above, in "Section II.A. Report on combined tax and foreign bank and financial account reporting." In particular, treatment of retirement accounts or investment vehicles varies has been a subject of some confusion. Few foreign pension funds or retirement plans in a nontreaty country are qualified pension funds within the meaning of regulations under section 6048.[74] U.S. persons residing abroad report confusion about understanding which reporting provision may be applicable to a particular fund or investment and difficulty obtaining assistance from the IRS or from local tax experts.[75]

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[70] Secs. 901 and 904. The foreign tax credit generally is limited to a taxpayer's U.S. tax liability on its foreign-source taxable income. The limit is intended to ensure that the credit mitigates double taxation of foreign-source income without offsetting U.S. tax on U.S.-source income.

[71] Sec. 911. For taxable years beginning in 2026, the foreign earned income exclusion amount under section 911(b)(2)(D)(i) is $132,900. Rev. Proc. 2025-32, sec. 4.39, 2025-45 I.R.B. 695.

[72] Sec. 985(b)(1)(A).

[73] Sec. 988.

[74] Rev. Proc. 2020-17; Proposed Treas. Reg. sec. 1.6048-8(d)(4).

[75] Concerns raised by U.S. persons abroad are recounted in American Citizens Abroad, Statement for the Record at House Ways and Means Committee, Full Committee Hearing with Internal Revenue Service Chief Executive Officer, Frank J. Bisignano, March 4, 2026, available at https://www.americansabroad.org/aca_submits_statement_for_the_record_house_ways_and_means_committee_hea

Description of Proposal

The proposal requires the Comptroller General to conduct a study on the compliance burdens faced by U.S citizens or residents living abroad. A public report on the study is to be submitted to the Secretary and Congress within one year of date of enactment. Within one year after such report is submitted, the Secretary is required to report to Congress on actions taken by the Secretary to address problems identified in the Comptroller General's report and on legislation necessary to address problems in the report.

The proposal enumerates a range of five aspects of compliance difficulties faced by U.S. citizens living abroad, including low-income and moderate-income individuals, that the study must address. The first factor to be considered is the difficulty in understanding one's Federal tax obligations with respect to filing returns and FBAR filing requirements, the treatment of foreign retirement accounts, and foreign currency gains. The remaining factors describe various aspects of accessing assistance in managing financial matters. They comprise receiving or responding to official communications with IRS or FinCEN, access to financial products and services abroad, access to affordable tax preparation services for U.S. income tax obligations, and burdens that are disproportionate to the amount of tax owed.

Effective Date

The proposal is effective on date of enactment.

ring_of_march_4_2026_with_irs_chief_executive_officer_frank_j_bisignano_to_discuss_the_2026_filing_season_260318. See also Government Accountability Office, *Workplace Retirement Accounts: Better Guidance and Information Could Help Plan Participants at Home and Abroad Manage Their Retirement Savings* (GAO-18-19), January 2018, available at https://www.gao.gov/products/gao-18-19.

C. Extension of Time for Persons Outside of the United States to Request Abatement of Math Error

Present Law

The authority of the IRS to assess additional tax is generally subject to certain restrictions on assessment known as deficiency procedures.[76] These deficiency procedures generally ensure that a taxpayer has access to administrative review and a pre-payment judicial forum (*i.e.,* the Tax Court) for reviewing disputed adjustments proposed by the IRS. A deficiency of tax is the amount by which the liability determined under the Code exceeds the sum of certain taxes[77] assessed for a period (including amounts shown on a return), after reduction for any rebates of tax.

Once the IRS determines a deficiency in a taxpayer's liability for income tax, gift tax, estate tax, or certain excise taxes and mails a notice of deficiency to the taxpayer's last known address, generally the taxpayer has 90 days to file a petition with the Tax Court to contest the deficiency determination. If the notice is addressed to a person outside the United States, the person has 150 days to file a petition with the Tax Court.[78] If the taxpayer fails to file a petition in that period, the IRS may begin collection action for the unpaid liability, and generally the taxpayer's only remaining option for judicial review of the liability amount is to pay the asserted liability, file a claim for credit or refund with the IRS, and, if such claim is denied or is not acted upon within six months, file suit in a U.S. district court or the Court of Federal Claims.[79]

Math error exception to restrictions on assessments

There are several exceptions to the restrictions on assessment of tax.[80] One of the principal exceptions is the IRS's authority to make a summary assessment of tax without

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[76] Secs. 6211 through 6215.

[77] The taxes to which deficiency procedures apply are income, estate and gift and excise taxes arising under chapters 41, 42, or 44. Secs. 6211 and 6213.

[78] Sec. 6213(a). There are at least four statutory exceptions to the 90- or 150-day rule. First, the 90- or 150-day period is extended, if necessary, so that the final day of the period does not fall on a Saturday, a Sunday, or a legal holiday in the District of Columbia. Sec. 6213(a). Second, a taxpayer may file a petition after the 90- or 150-day period if the filing date is on or before the deadline specified by the IRS in the notice of deficiency and that deadline is after the statutory deadline. Sec. 6213(a). Third, the running of the filing period is suspended while the taxpayer is precluded from filing a Tax Court petition due to an ongoing bankruptcy case, and for 60 days thereafter. Sec. 6213(f)(1). Fourth, the running of the filing period for a petition to contest certain excise tax deficiency determinations is suspended for any period during which the IRS extends the time allowed the taxpayer for correcting the tax-triggering event. Sec. 6213(e).

[79] See secs. 6213(a), 7422, 6532(a).

[80] Section 6213 provides that a taxpayer may waive the restrictions on assessment, permits immediate assessment to reflect payments of tax remitted to the IRS and to correct amounts credited or applied as a result of claims for carrybacks under section 1341(b), and requires assessment of amounts ordered as criminal restitution. Assessment is also permitted in certain circumstances in which collection of the tax would be in jeopardy. Secs. 6851, 6852, and 6861.

issuance of a notice of deficiency if the error is a result of a mathematical or clerical error, generally referred to as math error authority. The definition of mathematical or clerical errors is not limited to math, clerical, or transcription errors. It addresses numerous categories of errors,[81] many of which relate to rules regarding refundable credits.[82] If a mistake on the return is of a type that is within the meaning of mathematical or clerical error, the IRS immediately assesses the additional tax due as a result of correcting the mistake and sends notice to the taxpayer informing the taxpayer of the assessment. The issuance of a notice of math error begins a 60-day period within which the taxpayer may submit a request for abatement of the math error adjustment. If a taxpayer timely submits a request, the statute directs the IRS to abate the assessment.[83] The IRS may then refer the unresolved issue for examination under the deficiency procedures.

The IRS is required to prescribe procedures that permit taxpayers to request abatement in writing, electronically, by telephone, or in person.[84]

If an abatement is made after a notice of math error, a notice of abatement sent to the taxpayer's last known address is required. Such notice must include a plain language description of the abatement as well as an itemized computation of any adjustments made to the items that were included in the notice of math or clerical error.

Description of Proposal

Under the proposal, the period in which a taxpayer may request abatement of a math error assessment is increased from 60 days to 120 days if the notice of such assessment was sent to an address outside the United States.

Effective Date

The proposal applies to notices sent after the date that is 180 days after the date of enactment.

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[81] Secs. 6213(g)(2)(A) through (AA).

[82] Math error authority currently applies to certain errors related to the earned income tax credit, the child tax credit, the American opportunity tax credit, recovery rebate credits, and various energy-related credits.

[83] Sec. 6213(b)(2)(A). The statute provides no exceptions to the 60-day period in which to request abatement.

[84] Such requirements are required within 180 days of the date of enactment of "The Internal Revenue Service Math and Taxpayer Help Act," Pub. L. No. 119-39, November 25, 2025.

TITLE III—JUDICIAL REVIEW

A. Authorization of Subpoenas Before Hearings to Facilitate Settlements

Present Law

The Tax Court has authority to issue subpoenas in order to, among other things, compel "the attendance and testimony of witnesses, and the production of all necessary returns, books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing."[85] The Tax Court has interpreted this provision to mean that it may sign a subpoena requiring a third party to produce materials only at a scheduled hearing or deposition, but not otherwise in the course of pretrial discovery.[86]

Description of Proposal

The proposal authorizes the Tax Court to sign subpoenas requiring any litigating party or any third party to produce books, papers, documents, electronically stored information, or tangible things from any place in the United States for purposes of discovery or evidence, whether or not in connection with a scheduled hearing.

Effective Date

The proposal is effective on the date of enactment.

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[85] Sec. 7456(a)(1).

[86] See Tax Court Rules of Practice and Procedure, Rule 147(a)(1)(B) (2026) ("Any command to produce documents, electronically stored information, or tangible things must be included in a subpoena commanding attendance at a deposition, hearing, or trial."); Order, *Johnson v. Commissioner*, No. 17324-18 (T.C. Dec. 26, 2019). The Tax Court may be unable to unilaterally liberalize its third-party subpoena authority by amending Rule 147, due to the plain meaning of the term "hearing." See "Hearing," *Black's Law Dictionary* (12th ed. 2024) ("A judicial session, [usually] open to the public, held for the purpose of deciding issues of fact or of law, sometimes with witnesses testifying.").

B. Clarification of Tax Court Authority to Order Relief from a Judgment or Order

Present Law

Tax Court Rule 161 provides that any motion for reconsideration of an opinion must be filed with the Tax Court within 30 days after the opinion has been served, unless otherwise ordered by the Court. Tax Court Rule 162 provides that any motion to vacate or revise a decision must be filed with the Tax Court within 30 days after the decision has been entered, unless otherwise permitted by the Court.

In ruling on motions for reconsideration and motions to vacate or revise, the Tax Court generally looks to cases in the U.S. district and appellate courts that interpret Rules 59 and 60 of the Federal Rules of Civil Procedure ("FRCP"),[87] although the Tax Court is not bound by the FRCP.[88] FRCP Rule 60(a) permits a district court to correct a clerical mistake in a judgment or order, or a mistake arising from oversight or omission, on motion or on its own, with or without notice. Once an appeal has been docketed, such a mistake may be corrected only with the appellate court's leave. FRCP Rule 60(b) permits a district court to relieve a party from a final judgment or order for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial; (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; and (6) any other reason that justifies relief. Motions under FRCP Rule 60(b) must be made within a reasonable time and, with respect to reasons (1), (2), and (3), no more than a year after entry of the relevant judgment or order.[89] While pending, such motions do not affect the judgment's finality or suspend its operation.[90]

Description of Proposal

The proposal makes applicable to the Tax Court provisions similar to FRCP Rules 60(a) and 60(b). The proposal authorizes the Tax Court to set aside a judgment in the case of fraud on the Court, whenever discovered. The proposal provides that if the Tax Court provides relief from a final judgment or order, the parties have 90 days in which to file an appeal of such relief with the applicable U.S. appellate court.

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[87] See *Pietanza v. Commissioner*, T.C. Memo. 1990-524.

[88] See sec. 7453.

[89] FRCP Rule 60(c)(1).

[90] FRCP Rule 60(c)(2).

Effective Date

The proposal is effective on the date of enactment.

C. Authorization of Special Trial Judges to Hear Additional Cases and Address Contempt

Present Law

Special trial judge case assignments

The chief judge of the Tax Court is authorized to appoint special trial judges.[91] The chief judge may assign special trial judges to hear the following types of proceedings:[92] (1) declaratory judgment proceedings, (2) certain cases where the amount in dispute does not exceed $50,000 for any taxable year, period, or event, and the taxpayer agrees to use special trial procedures and to waive appeal rights,[93] (3) deficiency cases in which neither the deficiency for any taxable year, period, or event nor the amount of any claimed overpayment exceeds $50,000, (4) collection due process cases to review a lien or levy action,[94] (5) proceedings to determine whether an individual is an employee for purposes of an employer's employment tax liabilities, if the amount of tax in dispute does not exceed $50,000 for each tax period at issue and the taxpayer agrees to use special trial procedures and to waive appeal rights,[95] (6) appeals of an IRS whistleblower award determination,[96] and (7) any other proceeding designated by the chief judge. However, with respect to the final category (any other proceeding designated by the chief judge), a special trial judge may not independently render the Tax Court's decision.[97] Rather, one of the Court's presidentially appointed judges may adopt the special trial judge's recommendation.

Punishment for contempt of the court

The Tax Court is authorized to punish with a fine or imprisonment the following types of contempt of the court: obstruction of justice, misbehavior of the Tax Court's officers in their official transactions, and disobedience of or resistance to its orders.[98] Special trial judges are not specifically authorized to order punishment for contempt of the court.

Description of Proposal

The proposal authorizes the chief judge of the Tax Court to assign to a special trial judge any proceeding within the Tax Court's jurisdiction if the parties so consent and if such

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[91] Sec. 7443A(a).

[92] Sec. 7443A(b).

[93] See sec. 7463.

[94] See secs. 6320, 6330.

[95] See sec. 7436(c).

[96] See sec. 7623(b).

[97] Sec. 7443A(c).

[98] Sec. 7456(c).

assignment is authorized by rules to be promulgated by the Tax Court for the purpose of implementing the proposal. The proposal provides that in any such proceeding, the Tax Court may authorize the special trial judge to independently render the Court's decision.

The proposal authorizes special trial judges to order punishment for contempt of the court of the sort presently punishable by the Tax Court. However, the punishment ordered by a special trial judge may not exceed the maximum fine or prison term for a Class C misdemeanor. Currently those maximum penalties are $5,000 for a fine[99] and 30 days for imprisonment.[100] The proposal is not to be construed to limit a special trial judge's authority to order sanctions under any other statute or statutorily authorized Tax Court rule.[101]

Effective Date

The proposal is generally effective on the date of enactment. The authorization of the Tax Court to authorize special trial judges to independently render the court's decision in cases where the parties consent and the court's rules so provide is effective upon the court's adoption of such rules.

[99] 18 U.S.C. sec. 3571(b)(6).

[100] 18 U.S.C. sec. 3581(b)(8).

[101] See, *e.g.*, Tax Court Rules of Practice and Procedure, Rule 104(c) (2026) (providing that in certain cases where a party disobeys the Court's discovery orders, the Court may order certain sanctions, including payment of the other party's reasonable expenses caused by the disobedience).

D. Disqualification of Judges and Special Trial Judges

<u>Present Law</u>

The Tax Court is directed to prescribe rules establishing procedures for filing, investigating, and resolving complaints regarding the conduct of any judge or special trial judge.[102] The Tax Court has issued Rules for Judicial Conduct and Disability Proceedings.[103] However, no statute or Tax Court rule specifically requires Tax Court judges or special trial judges to recuse themselves in any particular situations.[104] At least one court has indicated that parties litigating in the Tax Court may force recusal of a judge only in cases where the due process clause of the Constitution so requires.[105]

<u>Description of Proposal</u>

The proposal applies to the Tax Court's judges and special trial judges the mandatory recusal provisions applicable to U.S. district and appellate judges.[106] Those provisions require judges to recuse themselves in any proceeding in which their impartiality might reasonably be questioned.[107] Those provisions also require judges to recuse themselves in the following circumstances, among others (and the litigating parties may not agree to waive recusal in such circumstances):[108] (1) where they have a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding; (2) where they or a colleague previously worked on the matter in private practice; (3) where they worked on the matter as a government employee; (4) where they know that they, or their spouse or minor child residing in their household, have a financial interest in the controversy; and (5) where they, their spouse, or a person within the third degree of relationship to either of them (or such person's spouse) is a party to, lawyer in, or likely material witness in the proceeding. The provisions also require judges to inform themselves about their personal and fiduciary financial interests and to make a reasonable effort to inform themselves about the personal financial interests of their spouse and minor children residing in their household.[109]

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[102] Sec. 7466.

[103] The rules are available at https://www.ustaxcourt.gov/jcdp/ (last visited May 29, 2026).

[104] See *Nobles v. Commissioner*, 105 F.3d 436, 438 (9th Cir. 1997).

[105] *Ibid.*

[106] See 28 U.S.C. sec. 455.

[107] 28 U.S.C. sec. 455(a).

[108] 28 U.S.C. sec. 455(b), (e).

[109] 28 U.S.C. sec. 455(c).

Effective Date

The proposal is effective on the date of enactment.

E. Notice and Review with Respect to Multi-Year Bans on Claiming Credits

Present Law

Multi-year bans on claiming certain credits

If a taxpayer improperly claims the child tax credit, the American opportunity tax credit, or the earned income tax credit, he or she may be disallowed from claiming that credit for a certain number of subsequent taxable years ("disallowance period").[110] If there is a final determination that the improper claim was due to fraud, the disallowance period is 10 years. If there is a final determination that the improper claim was due to reckless or intentional disregard of rules or regulations (but not due to fraud), the disallowance period is two years.

If the Secretary disallows for any reason (in whole or in part) a claim of the child tax credit, the American opportunity tax credit, or the earned income tax credit by means of a notice of deficiency, and such disallowance is not overturned on appeal, the taxpayer is not allowed such credit for any subsequent taxable year unless he or she provides such information as the Secretary requires to demonstrate eligibility for the credit.[111]

The IRS may use its "math error" authority to deny a taxpayer's claim for the child tax credit, the American opportunity tax credit, or the earned income tax credit during a disallowance period or without providing information required by the Secretary following a credit disallowance in a previous taxable year.[112] In other words, the IRS need not issue a notice of deficiency before denying the taxpayer's claim for credit in these circumstances, and the taxpayer may not petition for Tax Court review unless he or she first files a request for abatement with the IRS within 60 days of the math error notice.[113]

Judicial review

The Code does not provide for judicial review of the Secretary's determination to impose a disallowance period. Disallowance periods are not tax penalties (that is, amounts assessed for a taxpayer's failure to follow a certain rule), although they may function similarly. When a taxpayer litigates a tax penalty, the Secretary bears the burden of producing evidence that the

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[110] Secs. 24(g)(1), 25A(b)(4)(A), 32(k)(1).

[111] Secs. 24(g)(2), 25A(b)(4)(B), 32(k)(2).

[112] Sec. 6213(g)(2)(K), (P), (Q).

[113] Sec. 6213(b).

penalty is appropriate,[114] and, in the case of penalties for taxpayer fraud with intent to evade tax, the Secretary must prove by clear and convincing evidence that the penalty is warranted.[115]

Description of Proposal

Notice of multi-year bans

If the Secretary determines a deficiency of income tax attributable to the denial (in whole or in part) of a claim for the child tax credit, the American opportunity tax credit, or the earned income tax credit, the proposal requires the Secretary to include in the notice of deficiency sent to the taxpayer (1) an identification of the credit or credits denied and the grounds for each denial, (2) a statement that unless a denial is overturned on appeal, the taxpayer will be disallowed from claiming the same credit in subsequent years unless he or she provides information required by the Secretary to demonstrate eligibility, and (3) the grounds for any determination to impose a disallowance period, and a statement of the length such period will last (unless overturned on appeal).

Tax Court review of disallowance periods

The proposal grants the Tax Court jurisdiction to redetermine the Secretary's imposition of any disallowance period if the deficiency before the court relates to the taxable year in which the Secretary made his determination. The proposal also grants the Tax Court jurisdiction to impose a disallowance period if the Secretary, in his answer or amended answer filed with the court, claims that such period should be imposed beginning with the taxable year immediately after any year before the court.[116]

Burden of production and standard of proof

The proposal provides that in any court proceeding where the Secretary's determination to impose a disallowance period is at issue, the Secretary bears the burden of producing evidence that the determination is appropriate. The proposal provides that in any court proceeding where the Secretary's determination to impose a disallowance period owing to taxpayer fraud is at issue, the Secretary must prove that the determination is appropriate by the same standard applicable to other issues of taxpayer fraud, that is, clear and convincing evidence.

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[114] Sec. 7491(c).

[115] See sec. 7454(a); Tax Court Rules of Practice and Procedure, Rule 142(b) (2026) (providing that in any case involving the issue of fraud with intent to evade tax, the Secretary must carry the burden of proof by clear and convincing evidence).

[116] The proposal provides a special transition rule in the case of a deficiency attributable to a disallowance period relating to a notice of deficiency that did not include the grounds for the disallowance period and was mailed before the passage of 36 months after the date of enactment. In such cases, the proposal grants the Tax Court jurisdiction to redetermine the Secretary's imposition of the disallowance period (regardless of the taxable year in which the imposition was determined) and to determine any overpayment attributable to overturning the disallowance period.

Modification of disallowance periods

The proposal provides that no disallowance period takes effect unless either (1) the Secretary properly sends a notice of deficiency containing the specific required information relating to the disallowance period (described above), or (2) a determination by the Tax Court that the taxpayer's claim of credit was due to either fraud or reckless or intentional disregard has become final. The proposal clarifies that a disallowance period determined by the Secretary and properly identified in a notice of deficiency is nullified if the Tax Court determines that the Secretary's determination was improper. The proposal further provides that the periods of limitation[117] for claiming a credit or refund with respect to the child tax credit, the American opportunity tax credit, or the earned income tax credit for a taxable year in a disallowance period determined by the Secretary are suspended for any time during which the Secretary's determination is properly before the Tax Court.

Effective Date

The amendments regarding notices of deficiency are effective for notices mailed 36 months or more after the date of enactment. The amendments regarding Tax Court jurisdiction (including the special transition rule) are effective for petitions filed on or after the date of enactment. The amendments regarding burden of production and standard of proof are effective for court proceedings beginning after 36 months after the date of enactment in connection with disallowance periods determined after 36 months after the date of enactment. The amendments regarding modification of disallowance periods are effective for taxable years beginning after 36 months after the date of enactment and for any disallowance period whose determination is communicated in a notice of deficiency sent after 36 months after the date of enactment. The amendment regarding the periods of limitation for claiming a credit or refund is effective for Tax Court petitions filed after the date of enactment.

[117] See sec. 6511(a), (b)(2).

F. Authorization of De Novo Review of Innocent Spouse Relief by the Tax Court and Other Courts

Present Law

If a married couple elects to file a tax return on which they report their income jointly, they are generally jointly and severally liable for the entire tax liability that should have been reported on the joint return.[118] A spouse may be entitled to relief from joint liability, in whole or in part, under the innocent spouse relief provisions of the Code.

Grounds for relief from joint liability

There are three types of relief: general innocent spouse relief; relief for spouses who are no longer married or are legally separated (separation of liabilities); and equitable relief.[119] The grounds for relief and its scope differ among these three types of relief. For instance, the first two types of relief apply only to underreported tax, whereas equitable relief may apply to both underreported tax and reported but unpaid tax. In addition, the first two types of relief must be sought no later than two years after the date the IRS begins collection activities against the electing spouse. For equitable relief, there is no limitations period in the statute.

General relief from joint liability with respect to an understatement of tax is available to all joint filers who make a timely election for such relief and are able to establish the following three conditions:[120] First, the electing spouse must establish that the understatement is attributable to the erroneous items of the other spouse. Second, the electing spouse must show that at the time of signing the return, he or she did not know or have reason to know there was an understatement of tax. Finally, relief is granted only if it is inequitable to hold the electing spouse liable for the deficiency in tax, based on all facts and circumstances.

A separation of liabilities and relief from liability attributable to the other joint-filing spouse is available to persons who, at the time the election is filed, are no longer married to the other spouse, are legally separated from the other spouse, or have not lived in the same household as the other spouse for at least 12 months.[121] The spouse electing relief on this basis must establish the portion of the deficiency that is appropriately allocable to him or her.[122] The allocation of deficiency generally proceeds by allocating tax items to the joint filers in the manner they would have been allocated had the joint filers filed separate returns.[123] Special rules are provided for allocating items that gave rise to a tax benefit for the spouse to whom the item would not have been allocated had the spouses filed separately, as well as for certain property

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[118] Sec. 6013(d)(3).

[119] Sec. 6015.

[120] Sec. 6015(b).

[121] Sec. 6015(c)(3)(A).

[122] Sec. 6015(c)(2).

[123] Sec. 6015(d)(3)(A).

transfers and for children's liabilities.[124] Relief generally is not permitted with respect to items which contributed to a deficiency if the Secretary establishes that the requesting spouse was aware of such items at the time the return was signed.[125]

Equitable relief from joint liability may be available to those spouses who are ineligible under the provisions for general relief or separation of liabilities relief.[126] Such relief is granted only if, taking into account all facts and circumstances, it is inequitable to hold the individual liable for the unpaid portion of tax or for a deficiency with respect to the joint return.

Standard and scope of judicial review

If an individual elects relief from joint liability under any of the three grounds for relief, the individual may petition the Tax Court to review unfavorable determinations by the IRS with respect to the claimed relief.[127] Tax Court review of innocent spouse relief cases is *de novo* (that is, no deference is given to the IRS determination), but the judicial record is limited to (1) the IRS administrative record established at the time of the IRS determination, plus (2) any evidence that is newly discovered or was previously unavailable.[128]

The claim for relief from joint liability must be filed no later than 90 days after the notice of final determination on relief from joint liability and no earlier than the earlier of the mailing of such notice of final determination or the date which is six months after the election is filed.[129] Collection action is restricted during the period in which a petition may be filed, as well as during the pendency of a Tax Court proceeding.[130] If, while a Tax Court case is pending, either affected spouse files a refund suit in a district court or the Court of Federal Claims involving the joint return at issue, the latter court acquires jurisdiction over the innocent spouse petition, and the Tax Court loses such jurisdiction.[131]

The ability to petition the Tax Court is "in addition to any other remedy provided by law."[132] Many courts have indicated that taxpayers generally may dispute the IRS's innocent spouse relief determinations in Federal courts other than the Tax Court whenever those determinations are relevant to a tax refund suit, tax collection suit, or bankruptcy case otherwise

[124] Sec. 6015(c)(4), (d)(3)(B), (d)(5).

[125] Sec. 6015(c)(3)(C).

[126] Sec. 6015(f).

[127] Sec. 6015(e).

[128] Sec. 6015(e)(7), as added by the Taxpayer First Act, Pub. L. No. 116-25, sec. 1203(a)(1), 133 Stat. 981, 988 (2019).

[129] Sec. 6015(e)(1)(A).

[130] Sec. 6015(e)(1)(B).

[131] Sec. 6015(e)(3).

[132] Sec. 6015(e)(1)(A).

within those other courts' jurisdiction.[133] However, some courts have held that Federal courts other than the Tax Court may acquire jurisdiction over innocent spouse relief disputes only when a tax refund suit is filed by either affected spouse while an innocent spouse case is pending with the Tax Court.[134]

Description of Proposal

The proposal clarifies that the Federal district courts, the Court of Federal Claims, and the bankruptcy courts generally have jurisdiction to review IRS innocent spouse relief determinations regardless of whether an innocent spouse relief petition has been filed with the Tax Court, provided the relief claim is relevant to a tax refund suit, tax collection suit, or bankruptcy case otherwise within the court's jurisdiction.

Under the proposal, judicial review of an innocent spouse relief determination, whether in the Tax Court or another court, is *de novo*, and the judicial record is no longer limited to the administrative record plus newly discovered or previously unavailable evidence. The proposal allows all courts to consider all relevant evidence in reviewing innocent spouse relief determinations.

Effective Date

The proposal is effective for petitions, suits, and requests filed or pending on or after the date of enactment.

[133] See, *e.g.*, *In re Pendergraft*, No. 16-33506, 2017 BL 90508 (Bankr. S.D. Tex. Mar. 22, 2017); *Flores v. United States*, 51 Fed. Cl. 49 (2001).

[134] See, *e.g.*, *Chandler v. United States*, 338 F. Supp. 3d 592 (N.D. Tex. 2018); *In re Mikels*, 524 B.R. 805 (Bankr. S.D. Ind. 2015); *United States v. Elman*, No. 1:10-cv-06369, 2012 BL 318746 (N.D. Ill. Dec. 6, 2012).

G. Clarification of Certain Court Filing Deadlines

Present Law

The 90- or 150-day deadline for deficiency petitions

Once the IRS determines a deficiency in a taxpayer's liability for income tax, gift tax, estate tax, or certain excise taxes and mails a notice of deficiency to the taxpayer's last known address, generally the taxpayer has 90 days (150 days if the notice is addressed to a person outside the United States) to file a petition with the Tax Court to contest the deficiency determination.[135] If the taxpayer fails to file a petition in that period, the IRS may begin collection action for the unpaid liability, and generally the taxpayer's only remaining option for judicial review of the liability amount is to pay the asserted liability, file a claim for credit or refund with the IRS, and, if such claim is denied or is not acted upon within six months, file suit in a U.S. district court or the Court of Federal Claims.[136]

Until recently, the Tax Court and the U.S. courts of appeal consistently held that the taxpayer's meeting of the 90- or 150-day deadline is a prerequisite for the Tax Court's jurisdiction over a deficiency dispute and that the deadline may not be extended even on grounds of equity—that is, the deadline is not subject to "equitable tolling."[137] According to the Supreme Court: "[E]quitable tolling pauses the running of, or 'tolls,' a [period] of limitations when a litigant has pursued his rights diligently but some extraordinary circumstance prevents him from bringing a timely action."[138]

In 2022, the Supreme Court ruled that the 30-day deadline for taxpayers to file a Tax Court petition to contest an IRS notice of determination to proceed with a lien or levy action[139] (a "collection due process" petition) is not a jurisdictional deadline and is subject to equitable

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[135] Sec. 6213(a). There are at least five statutory exceptions to the 90- or 150-day rule. First, the 90- or 150-day period is extended, if necessary, so that the final day of the period does not fall on a Saturday, a Sunday, or a legal holiday in the District of Columbia. Sec. 6213(a). Second, a taxpayer may file a petition after the 90- or 150-day period if the filing date is on or before the deadline specified by the IRS in the notice of deficiency and that IRS-specified deadline falls after the statutory deadline. Sec. 6213(a). Third, the running of the filing period is suspended while the taxpayer is precluded from filing a Tax Court petition due to an ongoing bankruptcy case and for 60 days thereafter. Sec. 6213(f)(1). Fourth, the running of the filing period for a petition to contest certain excise tax deficiency determinations is suspended for any period during which the IRS extends the time allowed the taxpayer for correcting the tax-triggering event. Sec. 6213(e). Fifth, the running of the filing period for any Tax Court petition is extended if, on the date the petition is otherwise due, any Tax Court filing location (that is, either the office of the clerk of the Tax Court or any online portal made available for filing petitions) is inaccessible or otherwise unavailable to the general public. Sec. 7451(b).

[136] See secs. 6213(a), 7422, 6532(a).

[137] See *Hallmark Rsch. Collective v. Commissioner*, 159 T.C. 126, 153–63 (2022).

[138] *Lozano v. Montoya Alvarez*, 572 U.S. 1, 10 (2014).

[139] See sec. 6330(d)(1).

tolling.[140] The Supreme Court stated that a filing deadline is jurisdictional (and so cannot be equitable tolled) only if Congress "clearly states" that it is.[141]

After the Supreme Court's 2022 decision, the Tax Court reconsidered the 90- or 150-day deadline for deficiency petitions and reaffirmed its longstanding position that the deadline is jurisdictional.[142] However, the U.S. courts of appeal for the second, third, and sixth circuits have since reversed their precedent and held that the deficiency petition deadline is not jurisdictional and is subject to equitable tolling.[143] Because the Tax Court follows the relevant precedent of the U.S. court of appeal to which the petitioner's case would be appealable,[144] the Tax Court currently will consider a motion for equitable tolling when a petitioner misses the 90- or 150-day deficiency petition deadline and the petitioner's case would be appealable to the second, third, or sixth circuits.

Effects of petition dismissal

A dismissal by the Tax Court of a deficiency petition (for instance, due to the petitioner's failure to state a legally cognizable claim or to prosecute the case) is generally treated by statute as the Tax Court's decision that the taxpayer has a deficiency in the amount determined in the notice of deficiency.[145] The only exceptions are when (1) the Tax Court cannot discern from the record the deficiency amount determined by the IRS, or (2) the dismissal is for lack of jurisdiction.[146] Otherwise, a dismissal has *res judicata* effect, meaning that the taxpayer may not sue for a refund in a U.S. district court or the Court of Federal Claims after paying the disputed tax liability.[147] In effect, the taxpayer loses the ability to litigate the deficiency determination on the merits, unless the applicable U.S. court of appeal finds that the Tax Court's dismissal was erroneous. The statutory rule precludes a taxpayer who receives a notice of deficiency and files a petition in the Tax Court from later choosing to pay the tax and litigate the matter in a different Federal court (for instance, in order to have the case tried by jury).[148]

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[140] *Boechler, P.C. v. Commissioner*, 596 U.S. 199 (2022).

[141] *Ibid.* at 203.

[142] *Hallmark*, *supra*; *Sanders v. Commissioner*, 161 T.C. 112 (2023).

[143] *Oquendo v. Commissioner*, 148 F.4th 820 (6th Cir. 2025); *Buller v. Commissioner*, 152 F.4th 84 (2d Cir. 2025); *Culp v. Commissioner*, 75 F.4th 196 (3d Cir. 2023).

[144] See *Golsen v. Commissioner*, 54 T.C. 742, 757 (1970). Generally, a Tax Court decision is appealable to the circuit in which was located the petitioner's legal residence at the time of filing the Tax Court petition. See sec. 7482(b).

[145] Sec. 7459(d).

[146] *Ibid.*

[147] See sec. 6512(a); *Hallmark*, *supra*, at 145.

[148] See, *e.g.*, *Estate of Ming v. Commissioner*, 62 T.C. 519 (1974).

The Code does not provide rules to dictate the effect of the Tax Court's dismissal of any petition other than a deficiency petition. The Tax Court's rules provide that the court may dismiss a case for the petitioner's failure to properly prosecute the case or to comply with the court's rules and that such a dismissal operates as an adjudication on the merits, unless the court lacked jurisdiction over the case.[149] The Tax Court has held that it has discretion to grant a petitioner's motion to voluntarily dismiss a collection due process petition or an innocent spouse petition without prejudice to the petitioner's ability to litigate the matter in a future case, whether in the Tax Court or otherwise.[150]

<u>Collection due process and innocent spouse relief petition deadlines</u>

As noted above, the Supreme Court has held that the 30-day deadline for taxpayers to file a collection due process petition with the Tax Court is not a jurisdictional deadline and is subject to equitable tolling.[151]

A taxpayer who receives an unfavorable IRS determination on a request for "innocent spouse" relief from joint and several liability for the tax due on a joint return has, by statute, 90 days from the mailing of the IRS determination to petition the Tax Court for review.[152] The Tax Court has consistently held this deadline to be jurisdictional,[153] and to date no court of appeals has held otherwise.

<u>Petition deadline tolling for inaccessible filing location</u>

The running of the filing period for any Tax Court petition is extended if, on the date the petition is otherwise due, any Tax Court filing location (that is, either the office of the clerk of the Tax Court or any online portal made available for filing petitions) is inaccessible or otherwise unavailable to the general public. In such a case, the deadline is extended for the period of inaccessibility plus an additional 14 days.[154]

<u>Description of Proposal</u>

<u>Petition filing deadlines nonjurisdictional</u>

The proposal provides that the statutory Tax Court deadlines for deficiency petitions, collection due process petitions, and innocent spouse relief petitions are nonjurisdictional and, accordingly, are subject to equitable doctrines including equitable tolling, estoppel, forfeiture

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[149] Tax Court Rules of Practice and Procedure, Rule 123(d) (2026).

[150] *Davidson v. Commissioner*, 144 T.C. 273 (2015); *Wagner v. Commissioner*, 118 T.C. 330 (2002); *Dunn v. Commissioner*, T.C. Memo. 2026-2.

[151] *Boechler, P.C.*, *supra*.

[152] Sec. 6015(e)(1)(A).

[153] See *Frutiger v. Commissioner*, 162 T.C. 98 (2024).

[154] Sec. 7451(b).

(whereby the IRS loses the right to have a late-filed case dismissed if it fails to timely raise the objection), and waiver (whereby the IRS may consent to the Tax Court's hearing a late-filed petition, whether or not equitable tolling applies).

Dismissal of petitions

The proposal amends the statutory rule that a dismissal by the Tax Court of a deficiency petition is generally treated as the Tax Court's decision that the taxpayer has a deficiency in the amount determined in the notice of deficiency. The proposal exempts from this rule any dismissal by the Tax Court for failure to timely file the petition. Accordingly, a taxpayer who files a deficiency petition past the statutory deadline and whose circumstances do not merit the application of an equitable doctrine to extend or disregard the deadline generally may still pay the disputed tax, sue for a refund in a U.S. district court or the Court of Federal Claims, and litigate the tax liability on the merits.

The proposal also provides that the Tax Court's dismissal of a collection due process petition or innocent spouse petition is treated as a decision on the merits unless the dismissal is for lack of jurisdiction, failure to timely file the petition, or (unless the Tax Court orders that the dismissal shall be considered its decision on the merits) at the request of the petitioner.

Inaccessible filing locations

The proposal clarifies that if a Tax Court filing location is inaccessible for any part of the day on which a petition is otherwise due, then the deadline is extended for the number of days within the period of inaccessibility plus an additional 14 days. The proposal therefore confirms that the deadline extension is available if a filing location is inaccessible for some of but not the entire day on which a petition is otherwise due.

Effective Date

The proposal is effective for Tax Court cases pending on or after the date of enactment. The proposal's amendment regarding the nonjurisdictionality of deficiency, collection due process, and innocent spouse petition deadlines shall not be construed to create any inference regarding such petitions on which the Tax Court issued a final determination before the date of enactment, nor regarding any other type of Tax Court petition.

H. Clarification of Tax Court Jurisdiction to Determine Tax Liability in Collection Due Process Appeals

Present Law

Collection due process hearings

When a taxpayer neglects or refuses to pay an assessed internal revenue tax liability, generally the IRS may levy on the taxpayer's property or file a notice of lien against the taxpayer's property.[155] Generally the IRS must inform the taxpayer by notice before making the levy or within five days of filing the notice of lien, and the notice must indicate the taxpayer's right to request a hearing with the IRS Independent Office of Appeals ("IRS Appeals") to dispute the collection action, often called a "collection due process" hearing.[156] If the taxpayer requests a hearing, the IRS Appeals officer generally must (1) verify that the requirements of any applicable law or administrative procedure relating to the collection action have been met, (2) consider any relevant issues raised by the taxpayer, including collection alternatives such as an installment agreement or offer-in-compromise, and (3) determine whether the collection action balances the need for efficient collection of taxes with the taxpayer's legitimate concern that collection be no more intrusive than necessary.[157] A taxpayer is entitled to only one collection due process hearing with respect to any given tax period and a particular collection action (lien or levy).[158]

The taxpayer may raise challenges to the existence or amount of the underlying tax liability only if the taxpayer did not receive a notice of deficiency for the liability or did not otherwise have a prior opportunity to dispute the liability.[159] For this purpose, a prior opportunity includes (among other things) a bankruptcy case in which the IRS filed a proof of claim for the liability (whether or not the taxpayer disputed the claim),[160] as well as a pre-assessment opportunity (whether or not availed of) for a conference with or appeal before IRS Appeals regarding the liability, unless the liability is for a tax subject to deficiency procedures.[161] This is true even if IRS Appeals' decision following the conference or appeal is not reviewable by the Tax Court.

The taxpayer generally may not raise an issue at a collection due process hearing if, among other things, the issue was raised and considered at a previous collection due process hearing or in any

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[155] Secs. 6321, 6331.

[156] Secs. 6320(a), 6330(a).

[157] Sec. 6330(c).

[158] Secs. 6320(b)(2), 6330(b)(2).

[159] Sec. 6330(c)(2)(B).

[160] See, *e.g.*, *Kendricks v. Commissioner*, 124 T.C. 69 (2005).

[161] Treas. Reg. sec. 301.6330-1(e)(3), Q&A-E2; *Chavis v. Commissioner*, 158 T.C. 175 (2022); *Lewis v. Commissioner*, 128 T.C. 48 (2007). The taxes subject to deficiency procedures are income tax, gift tax, estate tax, and certain excise taxes. See secs. 6211(a), 6212(a).

other previous administrative or judicial proceeding in which the taxpayer meaningfully participated.[162]

Tax Court review

Once IRS Appeals issues a notice of determination after a collection due process hearing, the taxpayer may file a petition with the Tax Court to appeal the determination.[163] The Tax Court will consider a challenge to the underlying tax liability only if the taxpayer challenged the liability in the collection due process hearing and was entitled to do so.[164] Accordingly, the Tax Court will not consider a challenge to the underlying liability if, for instance, the taxpayer was named in a previous bankruptcy case in which the IRS filed a proof of claim for the liability, or the taxpayer was offered a conference with or appeal before IRS Appeals regarding the liability prior to assessment.[165]

Description of Proposal

The proposal provides that a taxpayer may raise a challenge to the underlying tax liability in a collection due process hearing if the taxpayer did not receive a notice of deficiency for the liability or did not otherwise have a prior opportunity to dispute the liability in a Federal court proceeding (other than an opportunity, if such existed, to file a refund suit related to the liability). For instance, a taxpayer who did not receive a notice of deficiency may challenge the liability at the collection due process hearing—and therefore generally be entitled to Tax Court review of the challenge—despite the fact that a previous conference with or appeal before IRS Appeals regarding the liability was offered or occurred prior to assessment (provided that any such conference or appeal did not result in a determination appealable to the Tax Court). However, if the taxpayer challenged the liability at a previous collection due process hearing for the same liability (but with respect to a different type of collection action), the appealable determination in that previous hearing would, as under present law, constitute a prior opportunity to dispute the liability in a Federal court proceeding.[166] Accordingly, the proposal would not permit the taxpayer to challenge the liability at the second collection due process hearing.

The proposal designates section 6330(c)(2)(B) as the sole rule governing the ability of a taxpayer to challenge the underlying liability at a collection due process hearing. The proposal effects this designation by excluding the underlying liability from the preclusion rules of section 6330(c)(4), which continue to apply to all issues other than the underlying liability.

[162] Sec. 6330(c)(4)(A).

[163] Sec. 6330(d).

[164] See *Goza v. Commissioner*, 114 T.C. 176, 182–83 (2000).

[165] See, *e.g.*, *Lewis v. Commissioner*, 128 T.C. 48 (2007).

[166] See secs. 6320(c), 6330(d).

Effective Date

The proposal is effective on the date of enactment.

I. Authorization of the Tax Court to Issue Refunds in Collection Due Process Cases

Present Law

Collection due process hearings

For present law regarding taxpayers' rights to collection due process hearings, see the present law description for the provision "Clarification of Tax Court Jurisdiction to Determine Tax Liability in Collection Due Process Appeals" (section III.H), above.

Tax Court refund jurisdiction

If a taxpayer receives a notice of deficiency for income tax, gift tax, estate tax, or certain excise taxes and timely files a petition with the Tax Court to contest the deficiency, the Tax Court has jurisdiction to not only redetermine the deficiency but also, if the facts warrant, determine an overpayment of tax for the taxable year(s), period(s), or event(s) to which the deficiency relates.[167] If the Tax Court determines an overpayment for a deficiency petitioner, the IRS generally must provide the petitioner a credit or refund in the amount of the overpayment once the Tax Court decision becomes final.[168] If the IRS fails to do so within 120 days, the Tax Court may order a refund of the overpayment plus interest.[169] However, in these cases the credit or refund generally is limited to the portion of the overpayment paid either (1) after the IRS mailed the notice of deficiency, (2) within the lookback period that would apply if the taxpayer had filed a claim for credit or refund on the date the notice of deficiency was mailed,[170] or (3) in cases where the taxpayer in fact timely filed a claim for credit or refund before the notice of deficiency was mailed, within the lookback period that applies to the filed claim.[171]

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[167] Sec. 6512(b)(1). According to the Supreme Court, an overpayment occurs "when a taxpayer pays more than is owed, for whatever reason or no reason at all." *United States v. Dalm*, 494 U.S. 596, 609 n.6 (1990). Section 6401(a) provides: "The term 'overpayment' includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto."

[168] Sec. 6512(b)(1).

[169] Sec. 6512(b)(2).

[170] If a claim for credit or refund is filed within three years of the filing of the relevant tax return, the lookback period generally is the three years (plus any extension of time granted for filing the return) immediately preceding the filing of the claim. Sec. 6511(b)(2)(A). If a claim for credit or refund is filed within two years of paying the tax but more than three years after filing the relevant return, the lookback period generally is the two years immediately preceding the filing of the claim. Sec. 6511(b)(2)(B).

[171] The taxpayer may benefit from the lookback period for a claim actually filed before the notice of deficiency was mailed only if (1) the claim was not disallowed before the notice of deficiency was mailed, (2) the claim was disallowed before the notice of deficiency was mailed but the taxpayer could have timely commenced a suit for refund as of the date of mailing (which, under section 6532(a), generally requires that the notice of deficiency have been mailed no more than two years after the notice of disallowance was mailed), or (3) the claim was disallowed before the notice of deficiency was mailed and the taxpayer timely commenced a suit for refund before the notice of deficiency was mailed. Sec. 6512(b)(3)(C).

Unlike in the case of deficiency petitions, the Tax Court does not have explicit statutory jurisdiction to determine an overpayment or to order a credit or refund for a petitioner contesting a notice of determination regarding a collection due process hearing.[172] The Tax Court has held that it lacks such jurisdiction, even if the record warrants determining an overpayment.[173]

Moreover, the Supreme Court has held that the Tax Court lacks jurisdiction to review the underlying liability in a collection due process case if the IRS has ceased to pursue the collection action at issue in the notice of determination, even if the taxpayer otherwise has the right to dispute that liability before the Tax Court.[174] This situation may occur if the taxpayer has made overpayments on other tax liabilities that the IRS has credited to the liability at issue in the collection due process case.[175] There is no limitation on the IRS's discretion over whether or how to credit overpayments among a taxpayer's outstanding Federal tax liabilities.[176]

Description of Proposal

The proposal explicitly confers jurisdiction on the Tax Court to determine an overpayment for any taxable years, periods, or events at issue in any case brought to contest a notice of determination regarding a collection due process hearing, provided that the taxpayer was not statutorily precluded from challenging the underlying liability in question at the collection due process hearing.[177] The proposal limits the credit or refund allowed after the Tax Court determines an overpayment in a collection due process case in a manner analogous to the existing limitation on the credit or refund allowed after the Tax Court determines an overpayment in a deficiency case.[178]

The proposal provides that when a taxpayer requests a collection due process hearing, the running of the period of limitations for filing a claim for credit or refund with respect to the taxes at issue (as well as the associated tax payment lookback periods) is suspended while the hearing and any appeals therefrom are pending.[179]

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[172] See sec. 6330(d).

[173] See *Greene-Thapedi v. Commissioner*, 126 T.C. 1, 8–13 (2006); see also sec. 7442 ("The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title . . . ."); *Commissioner v. McCoy*, 484 U.S. 3, 7 (1987) ("The Tax Court is a court of limited jurisdiction and lacks general equitable powers.").

[174] *Zuch v. Commissioner*, 605 U.S. 422 (2025).

[175] *Ibid.*

[176] See sec. 6402(a).

[177] See sec. 6330(c)(2)(B) (providing that a taxpayer may contest the existence or amount of the tax liability for which collection is sought only if the taxpayer did not receive a notice of deficiency for the liability and did not otherwise have a prior opportunity to dispute the liability).

[178] See sec. 6512(b)(3).

[179] For instance, suppose a taxpayer files a tax return and makes an overpayment on April 15, 2028, and requests a collection due process hearing with respect to an asserted outstanding liability on the return on April 15,

The proposal prohibits the Secretary from crediting overpayments made on a taxpayer's other Federal tax liabilities to a liability whose amount is properly disputed at a collection due process, absent the taxpayer's consent. This prohibition lasts as long as the hearing and any appeals therefrom are pending.

Effective Date

The proposal is generally effective for Tax Court cases pending on or after the date of enactment. The prohibition on crediting overpayments to liabilities properly disputed at a collection due process hearing while the hearing and any appeals are pending ("suspension period") is effective for suspension periods any portion of which falls after the date of enactment.

2030. If the first day on which neither the hearing nor any appeals are pending is April 15, 2033, on which date the taxpayer files a claim for credit or refund, then the payment lookback period is April 15, 2027, through April 15, 2033. If instead the taxpayer files the claim for credit or refund on April 15, 2034, then the lookback period is April 15, 2028, through April 15, 2034.

J. Authorization of the Tax Court to Hear Suits for Refunds or Credits

<u>Present Law</u>

<u>Tax refund suits</u>

The U.S. district courts and the Court of Federal Claims have jurisdiction to hear suits brought by taxpayers seeking a refund of any Federal internal revenue tax or penalty alleged to have been erroneously or illegally collected or paid.[180] To bring a refund suit, a taxpayer generally must (1) pay the full disputed liability for the relevant tax year, tax period, or (in the case of an excise tax) transaction or event,[181] (2) file a timely claim with the IRS for credit or refund of the alleged overpayment,[182] and (3) file suit no earlier than six months after filing the claim with the IRS and (if applicable) no later than two years after the IRS mails a notice disallowing the claim.[183] The claim for credit or refund generally must be filed with the IRS within three years of filing the relevant tax return or within two years of paying the tax, whichever period expires later.[184]

Once a timely claim has been filed, the IRS may allow, and a court may order, a credit or refund for only the portion of the overpayment paid during the relevant lookback period. If the claim for credit or refund was filed within three years of the filing of the relevant tax return, the lookback period generally is the three years (plus any extension of time granted for filing the return) immediately preceding the filing of the claim.[185] If the claim was filed within two years of paying the tax but more than three years after filing the relevant return, the lookback period generally is the two years immediately preceding the filing of the claim.[186]

If a taxpayer receives a notice of deficiency regarding income tax, gift tax, estate tax, or certain excise taxes and timely files a Tax Court petition to contest the notice, the taxpayer generally may not thereafter sue for a refund of the same tax for the same taxable years, periods, or acts at issue in the notice of deficiency.[187]

If a taxpayer sues for a refund in a district court or the Court of Federal Claims and, before the case is heard, the IRS issues the taxpayer a notice of deficiency for any tax at issue in the taxpayer's suit, the proceedings in the taxpayer's suit are stayed for the period in which the

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[180] 28 U.S.C. sec. 1346(a)(1).

[181] See *Flora v. United States*, 362 U.S. 145, 150–51, 171 n.37 (1960).

[182] Sec. 7422(a).

[183] Sec. 6532(a)(1).

[184] Sec. 6511(a).

[185] Sec. 6511(b)(2)(A).

[186] Sec. 6511(b)(2)(B).

[187] Sec. 6512(a).

taxpayer may file a petition in the Tax Court plus an additional 60 days.[188] If the taxpayer files a Tax Court petition to contest the notice of deficiency, the court in which the taxpayer filed suit for refund loses jurisdiction to the extent the Tax Court acquires jurisdiction over the subject matter of the taxpayer's refund suit.[189]

Tax Court refund jurisdiction

The Tax Court does not have jurisdiction over standalone suits for refund of internal revenue taxes.[190] The Tax Court may determine an overpayment, and order an appropriate credit or refund, in certain cases that fall within its jurisdiction for reasons other than the taxpayer's assertion of an overpayment.[191] But taxpayers who believe, for instance, that they were subject to overwithholding, or that they made an error on their return that yielded an overstatement of tax liability, and whose claim for credit or refund is denied by the IRS, may not file suit in the Tax Court to contest the IRS's disallowance. Rather, those taxpayers must sue in a U.S. district court or the Court of Federal Claims.

Description of Proposal

The proposal grants the Tax Court jurisdiction over suits brought by any taxpayer for a refund, not exceeding the "applicable amount," of any Federal internal revenue tax or penalty alleged to have been erroneously or illegally collected or paid, to the same extent that the U.S. district courts and the Court of Federal Claims currently hold jurisdiction over such suits. The U.S. district courts and the Court of Federal Claims will continue to have jurisdiction over this category of suits concurrently with the Tax Court.

The applicable amount is $2 million for any one taxable year in the case of income tax, $2 million in the case of estate tax, $2 million for any one calendar year in the case of gift tax, $2 million for any one taxable period or event in the case of employment taxes and excise taxes, and $2 million in the case of any other amount collected under the provisions of the Code (such as assessable penalties).

If a taxpayer sues for a refund in the Tax Court and, before the case is heard, the IRS issues a notice of deficiency for any tax at issue in the suit, the proposal provides that

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[188] Sec. 7422(e).

[189] *Ibid.*

[190] See 28 U.S.C. sec. 1346(a)(1); Code sec. 7442 ("The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title . . . ."); *Commissioner v. McCoy*, 484 U.S. 3, 7 (1987) ("The Tax Court is a court of limited jurisdiction and lacks general equitable powers.").

[191] See, *e.g.*, secs. 6512(b) (authorizing the Tax Court to determine an overpayment and order an appropriate credit or refund in cases where a taxpayer files a petition to contest a notice of deficiency), 6404(h)(2)(B) (authorizing the Tax Court to determine an overpayment and order an appropriate credit or refund in cases where a taxpayer files a petition to contest the IRS's failure to abate interest on a liability), 6015(e)(1)(A) (authorizing the Tax Court, in cases where a spouse seeks relief from joint and several liability for income taxes, to "determine the appropriate relief available to the individual under this section [which includes subsection (g), authorizing a credit or refund in certain circumstances]").

proceedings in the refund suit are stayed for the period in which the taxpayer may file a petition to contest the notice of deficiency plus an additional 60 days. If the taxpayer files such a petition, the proposal provides that the petition is consolidated with the refund suit.

The proposal permits the taxpayer in certain instances to elect the Tax Court's small case procedures for the conduct of a refund suit.[192]

Effective Date

The proposal is effective for actions filed after the date that is 12 months after the date of enactment.

[192] See the description of the provision "Adjustment of Threshold for Small Disputes" (section III.M), below.

K. Authorization to Allow Claims for Refund in Certain Cases Where Full Tax Not Paid

Present Law

Before filing a tax refund suit, a taxpayer generally must fully pay the tax or penalty liability in dispute.[193] Under this "full payment rule," the partial payment of an assessment for a particular taxable year, period, transaction, or event generally is insufficient to support refund suit jurisdiction. For instance, if a taxpayer is assessed a $10,000 income tax liability for the 2026 taxable year and believes the entire assessment to be erroneous, the taxpayer may not pay only $5,000 and file suit for a refund of that amount; rather, the full $10,000 must be paid first. If a taxpayer must delay filing a refund suit while attempting to pay the liability in full using an installment agreement,[194] a court may not be authorized to order a full refund of the incorrect amount collected by the IRS because part or all of the refund may be time-barred by the time the taxpayer can properly file the suit.[195] Generally, the taxpayer is entitled to a refund only of amounts overpaid within a two- or three-year lookback period from the filing of the refund claim with the IRS.[196]

When contesting an estate tax liability, the Code provides an exception to the full payment rule if the liability is being paid in installments by reason of an election under section 6166 (which allows an extension of time to pay estate tax if the estate consists in large part of an interest in a closely-held business).[197] There are also limited exceptions for tax return preparer penalties[198] and penalties on promoting abusive tax shelters and on aiding and abetting tax liability understatements.[199]

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[193] *Flora v. United States*, 362 U.S. 145, 177 (1960). The full payment rule also applies to non-tax amounts collected under the Code, including assessable penalties. Note that the Tax Court exists as a prepayment forum for disputing the IRS's deficiency determinations. However, taxpayers who fail to timely petition the Tax Court lose their right to a prepayment forum (such that a refund suit is the only remaining avenue of redress), and there are some Code-based liabilities (for instance, assessable penalties) for which the IRS is not required to follow deficiency procedures.

[194] See sec. 6159.

[195] See sec. 7422(a) (providing that a refund suit may not be filed until the taxpayer has filed a refund claim with the IRS); sec. 6532(a)(1) (providing that generally a refund suit must be filed within two years after the IRS denies part or all of the refund claim); sec. 6511(a) (providing that generally a refund claim must be filed with the IRS within three years from the applicable return filing or two years from the time the applicable tax was paid, whichever period ends later); sec. 6511(b) (providing that generally a refund will be allowed only for the portion of the tax paid in the two- or three-year period immediately preceding the refund claim filing).

[196] Sec. 6511(b).

[197] Sec. 7422(j)(1).

[198] Sec. 6694(c)(1).

[199] Sec. 6703(c)(1).

Description of Proposal

The proposal abrogates the full payment rule for taxpayers who are paying a tax or penalty liability under an installment agreement with the IRS (and who are not delinquent with any payments under the agreement) or whose liability the IRS has determined is currently not collectible. Any such taxpayer may file a refund suit for the liability in question regardless of whether the full liability has been paid, and if successful is generally entitled to a refund of the amount overpaid by the time of the court's decision.

The proposal authorizes (but does not require) the court, upon the government's or the Secretary's request (as appropriate), to dismiss the case if the taxpayer becomes delinquent in making installment payments or is no longer in currently not collectible status. The court may dismiss the action, with or without taking evidence or holding a hearing, upon which the taxpayer has leave to refile at such time as either the taxpayer has made full payment of the liability, is current on all installment agreement payments, or is in currently not collectible status. In deciding whether to dismiss the action, the court may consider factors such as the extent to which the action has proceeded, the extent to which full payment has been made, the potential burdens on the taxpayer, the government, the Secretary, or the court, and broader policy reasons related to the full payment rule. Any dismissal will not be reviewable by any other court.

If the court redetermines the correct amount of the taxpayer's liability, the Secretary may not collect any portion of the liability disallowed by the court once the decision has become final, and any amounts paid in excess of the correct amount determined by the court must be refunded, subject to the lookback limitations applicable to amounts paid before the taxpayer's refund claim was filed with the IRS.[200]

Effective Date

The proposal is effective for actions filed on or after the date that is 12 months after the date of enactment.

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[200] See sec. 6511(b).

L. Adjustment of Threshold for Small Disputes

Present Law

Small Tax Court cases

Taxpayers who petition the Tax Court may elect, in certain low-dollar disputes ("small cases"), to have their cases conducted under rules of evidence, practice, and procedure prescribed by the Tax Court for small cases, rather than the Federal Rules of Evidence and the default rules of practice and procedure prescribed by the Tax Court for its cases.[201] The Tax Court has prescribed that trials of small cases are to be conducted as informally as possible consistent with orderly procedure, and any evidence deemed by the Court to have probative value is admissible.[202] Unlike in the Tax Court's regular cases, neither briefs nor oral arguments are required in small cases unless the court directs otherwise.[203] The chief judge of the Tax Court may assign the court's special trial judges (who are appointed by the chief judge, not the President) to hear and decide small cases.[204] The decision of a judge (including a special trial judge) in a small case is not appealable to any other court and may not be treated as precedent for any other case.[205] The judge hearing a small case may not redetermine a deficiency, or determine an overpayment, in an amount greater than the $50,000 jurisdictional limits described below, except for amounts mutually agreed on by the parties.[206]

A petitioner disputing the Secretary's deficiency determination may elect the small case rules if neither the portion of the deficiency disputed nor any claimed overpayment exceeds $50,000 for any one taxable year (in the case of income tax), $50,000 total (in the case of estate tax), $50,000 for any one calendar year (in the case of gift tax), or $50,000 for any one taxable period or event (in the case of excise taxes subject to deficiency procedures).[207] Additionally, a petitioner may elect the small case rules if (1) seeking relief from spousal joint and several liability, where the amount of relief does not exceed $50,000, (2) appealing a collection due process determination to collect by lien or levy an unpaid amount of tax not exceeding $50,000, (3) contesting the Secretary's failure to abate interest in an amount not exceeding $50,000, or (4) contesting the Secretary's determination that the petitioner has misclassified employees as non-employees (or does not qualify for statutory relief from the tax liability associated with that misclassification), where the amount of employment tax in dispute does not exceed $50,000 per

[201] Secs. 7463, 7453.

[202] Tax Court Rules of Practice and Procedure, Rule 174(b) (2026).

[203] Tax Court Rules of Practice and Procedure, Rule 174(c) (2026).

[204] Sec. 7443A(b) and (c).

[205] Sec. 7463(b).

[206] Sec. 7463(c).

[207] Sec. 7463(a). For these purposes, the deficiency placed in dispute includes any additions to tax, accuracy-related penalties, and civil fraud penalties (but not interest) that are disputed and are subject to deficiency procedures. Sec. 7463(e).

calendar quarter.[208] The Tax Court must consent to the taxpayer's election before the small case rules apply to any petition.

The abovementioned $50,000 ceilings were set by the IRS Restructuring and Reform Act of 1998[209] (which raised the previous $10,000 ceilings) and are not adjusted for inflation.

Description of Proposal

The proposal increases to $100,000 each of the $50,000 ceilings for the small case rule election.[210] The proposal provides that for any petition filed in a calendar year after 2026, the new $100,000 ceiling for the small case rule election is adjusted for inflation (rounded down, if not a multiple of $1,000, to the next lowest such multiple), using 2025 as the base year.

Effective Date

The proposal is effective for Tax Court proceedings commencing after the date of enactment.

[208] Secs. 7463(f), 7436(c).

[209] Pub. L. No. 105-206, sec. 3103, 112 Stat. 685, 731.

[210] The proposal also establishes a $100,000 ceiling for the small case election for refund suits heard by the Tax Court under the provision "Authorization of the Tax Court to Hear Suits for Refunds or Credits." See section III.J, above.

TITLE IV—OFFICE OF THE TAXPAYER ADVOCATE

A. NTA Authorization to Direct Hire Attorneys

Present Law

The Office of the Taxpayer Advocate is expected to represent taxpayer interests independently in disputes with the IRS. The National Taxpayer Advocate ("NTA") supervises the Office of the Taxpayer Advocate. The NTA reports directly to the Commissioner of Internal Revenue and is entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of Title 5 of the United States Code, or if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title. The NTA is responsible for appointing local taxpayer advocates and making available at least one such advocate for each State.[211] She is also responsible for evaluating and taking personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate. There is no clear statutory authority for the NTA to directly hire and supervise independent legal counsel.

Description of Proposal

The proposal provides for the responsibility and authority of the National Taxpayer Advocate to appoint counsel in the Office of the Taxpayer Advocate to report directly to the NTA (or delegate). Furthermore, the NTA may utilize direct hire authority to recruit and appoint qualified applicants, without regard to any preference requirements, and any counsel so appointed will not report to the Chief Counsel for the IRS and may not represent the government in litigation. However, any legal interpretation of such counsel is not binding on the Secretary and the Chief Counsel for the IRS will continue to provide advice to the NTA and the Office of the Taxpayer Advocate.

Effective Date

The proposal is effective on the date of enactment.

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[211] Sec. 7803(c)(2)(D)(i).

B. NTA Authorization to Make Personnel Decisions

Present Law

See the discussion of present law in section IV.A., above.

Description of Proposal

Under the proposal, the NTA is responsible for evaluating and taking personnel actions (including dismissal) with respect to any officer or employee of the Office of the Taxpayer Advocate.

Effective Date

The proposal is effective 12 months after the date of enactment.

C. Access to Internal Revenue Service Information, Legal Advice, and Meetings

Present Law

In general

The Office of the Taxpayer Advocate is expected to represent taxpayer interests independently in disputes with the IRS. The Office of the Taxpayer Advocate has four principal functions:

1. to assist taxpayers in resolving problems with the IRS;
2. to identify areas in which taxpayers have problems in dealing with the IRS;
3. to propose changes in the administrative practices of the IRS to mitigate problems identified in (2); and
4. to identify potential legislative changes which may be appropriate to mitigate such problems.

Taxpayer Assistance Orders

A taxpayer can request a Taxpayer Assistance Order ("TAO") if the taxpayer is suffering or about to suffer a "significant hardship" as a result of the manner in which the internal revenue laws are being administered by the IRS.[212] A TAO may require the IRS within a specified time period, to release property of the taxpayer that has been levied upon, or to cease any action, take any action as permitted by law, or refrain from taking any action with respect to the taxpayer under specified provisions.[213]

The Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue may rescind a TAO issued by the NTA, only if a written explanation of the reasons for the modification or rescission is provided to the NTA.[214]

Taxpayer Assistance Directives

While a TAO is specific to a particular taxpayer, a Taxpayer Assistance Directive ("TAD") is systemic, intended to address groups of taxpayers. Delegation Order 13-3 authorizes

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212 Sec. 7811(a)(1)(A). Significant hardship is deemed to occur if one of four factors exists: (1) there is an immediate threat of adverse action; (2) there has been a delay of more than 30 days in resolving the taxpayer's problems; (3) the taxpayer will have to pay significant costs (including fees for professional services) if relief is not granted; or (4) the taxpayer will suffer irreparable injury, or a long term adverse impact if relief is not granted. Sec. 7811(a)(2). The NTA may also issue a TAO if the taxpayer meets requirements to be set forth in regulations. Sec. 7811(a)(1)(B).

213 Sec. 7811(b). A TAO or action taken by the NTA applies to persons performing services under a qualified tax collection contract to the same extent and to the same manner as such order applies to the IRS.

214 Sec. 7811(c). The NTA also may modify or rescind a TAO issued by the NTA.

the NTA alone to issue Taxpayer Advocate Directives to mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers) when implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment or provide an essential service to taxpayers.[215] The authority to modify or rescind a TAD is delegated to Deputy Commissioner for Operations Support, Deputy Commissioner for Services and Enforcement, and to the National Taxpayer Advocate. The Commissioner or a Deputy Commissioner is required to take timely action on a TAD and requires the NTA to identify in her report to Congress any TAD which was not honored in a timely manner.[216]

Annual Reports

The NTA is required to submit two reports annually to the House Committee on Ways and Means and to the Senate Finance Committee.[217] One report, due June 30 of each year, covers the Office of the Taxpayer Advocate's objectives for the fiscal year beginning in that calendar year. Besides statistical information, the report must contain a full and substantive analysis of the objectives.

The other report, due December 31 of each year, concerns the activities of the Office of the Taxpayer Advocate. The content of this report is set by statute.[218] Generally, the report must cover initiatives taken to improve taxpayer services and problems encountered, as well as the actions taken to resolve them and the results; an inventory of the items for which action remains to be completed; and an inventory of items for which no action was taken and the reasons for inaction. Specifically, the report must cover the ten most serious problems experienced by taxpayers. The report also must identify the ten most litigated issues for each category of taxpayer and the areas of the tax law that impose significant compliance burdens on taxpayers or the IRS. Recommendations received from individuals with the authority to issue Taxpayer Assistance Orders, and any Taxpayer Assistance Order not promptly honored by the IRS, must also be included in the report. The report must also set forth recommendations for administrative and legislative action to resolve problems encountered by taxpayers.

The NTA is required by statute to submit the reports directly to the Congressional committees without prior review of the Commissioner, the Secretary, or any officer or employee of the Treasury, the Oversight Board, or the Office of Management and Budget.[219]

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[215] Delegation Order 13-3, Internal Revenue Manual 1.2.50.4 (January 17, 2001).

[216] Sec. 7803(c)(5).

[217] Sec. 7803(c)(2)(B).

[218] Sec.7803(c)(2)(B)(ii)(I) through (XI).

[219] Sec. 7803(c)(2)(B)(iii).

Description of Proposal

Under the proposal, upon request, the Commissioner is required to provide the Office of the Taxpayer Advocate access to information, legal advice and meetings. In the case of an open and pending request by a taxpayer for assistance by the Office of the Taxpayer Advocate, this access includes that to any return information[220] determined by the NTA to be necessary to assist the taxpayer, any legal advice provided by the Office of Chief Counsel to any employee of the IRS and determined to be necessary for the Office of the Taxpayer Advocate to assist the taxpayer regardless of whether such legal advice may be disclosed to the taxpayer, and any meeting between the taxpayer and any employee of the IRS. This access also includes any relevant document, data, or statistical information, and any legal advice provided by the staff of the Office of the Chief Counsel to any employee of the IRS on any matter or issue (including any legal advice prepared in contemplation of litigation) to the extent necessary for purposes of performing a full and substantive analysis for inclusion in the annual report of the NTA to the House Committee on Ways and Means and the Senate Committee on Finance. The Commissioner will be deemed to have satisfied the requirement to provide access to meetings if he extends an invitation to attend the meeting without regard to whether such a meeting is declined by any employee of the Office of the Taxpayer Advocate.

In the case of any of the annual reports required of the NTA, this access includes any relevant document, data, or statistical information, and any legal advice provided by the staff of the IRS Office of the Chief Counsel to any employee of the IRS, and any legal advice from the staff of the Office of Chief Counsel on any other matter or issue.

Access to such information, advice, or meeting is to be provided by the Commissioner not later than the date which is two weeks after the date on which a written request submitted by the Office of the Taxpayer Advocate has been received by the Commissioner, or another date which is agreed to by the Commissioner and the Office of the Taxpayer Advocate. Furthermore, the NTA is required to identify in her annual report to Congress any failures by the Commissioner to provide access to any information, advice, or meeting, by the date required, as described above. Finally, any access provided to the Office of the Taxpayer Advocate with respect to information or legal advice from the staff of the Office of Chief Counsel is to have no effect on any privilege which otherwise applies to such information or legal advice.

Effective Date

The proposal is effective on the date of enactment.

[220] As defined in section 6103(b).

D. Repeal of Limitation Period Suspension for Taxpayers Seeking Assistance from TAS

Present Law

Taxpayer Assistance Orders

Among other functions, the Office of the Taxpayer Advocate is expected to assist individual taxpayers in resolving problems with the IRS. A taxpayer can request a Taxpayer Assistance Order ("TAO") if the taxpayer is suffering or about to suffer a "significant hardship" as a result of the manner in which the internal revenue laws are being administered by the IRS.[221] A TAO may require the IRS within a specified time period, to release property of the taxpayer that has been levied upon, or to cease any action, take any action as permitted by law, or refrain from taking any action with respect to the taxpayer under specified provisions.[222] The running of any period of limitation with respect to these actions is suspended for the period beginning on the date of the taxpayer's application for a TAO, and ending on the date of the NTA's decision with respect to such an application or any period specified by the NTA (or a designee of the NTA) in a TAO issued pursuant to the taxpayer's application.[223]

The Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue may rescind a TAO issued by the NTA or a designee of the NTA, only if a written explanation of the reasons for the modification or rescission is provided to the NTA.[224]

Description of Proposal

Under the proposal, the suspension of the running of the period of limitation with respect to the actions described in the terms of a TAO is repealed.[225]

Effective Date

The proposal is effective on the date of enactment.

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[221] Sec. 7811(a)(1)(A). Significant hardship is deemed to occur if one of four factors exists: (1) there is an immediate threat of adverse action; (2) there has been a delay of more than 30 days in resolving the taxpayer's problems; (3) the taxpayer will have to pay significant costs (including fees for professional services) if relief is not granted; or (4) the taxpayer will suffer irreparable injury, or a long term adverse impact if relief is not granted. Sec. 7811(a)(2). The NTA may also issue a TAO if the taxpayer meets requirements to be set forth in regulations. Sec. 7811(a)(1)(B).

[222] Sec. 7811(b). A TAO or action taken by the NTA applies to persons performing services under a qualified tax collection contract to the same extent and to the same manner as such order applies to the IRS.

[223] Treas. Reg. sec. 301.7811-1(e).

[224] Sec. 7811(c). The NTA also may modify or rescind a TAO issued by the NTA.

[225] Sec. 7811(d) is repealed.

E. Operations to Assist Taxpayers Experiencing Hardships During Lapse in Appropriations

Present Law

For a discussion of the duties of the NTA and the Office of the Taxpayer Advocate, see the discussion of present law in section IV.C., above. For a discussion of TAO's, see the discussion of present law in section IV.D., above.

Under 31 U.S.C. sec. 1341(a), an officer or employee of the U.S. Government or of the District of Columbia is generally prohibited from obligating or expending certain Federal funds in advance or in excess of an appropriation.

Description of Proposal

Under the proposal, notwithstanding 31 U.S.C. sec. 1341(a), during any lapse in appropriations, the Commissioner and the Office of the Taxpayer Advocate may incur obligations in advance of appropriations for necessary amounts to assist any taxpayer who may be experiencing an economic hardship[226] as a result of any action or inaction by the IRS, and for the purpose of complying with any TAO.

Effective Date

The proposal is effective on the date of enactment.

[226] "Economic hardship" is defined within the meaning of sec. 6343(a)(1)(D).

TITLE V—TAX RETURN PREPARERS

A. Penalties for Tax Return Preparers Who Improperly Alter Returns

Present Law

Under present law, the term "return" for purposes of the tax return preparer penalty provisions includes (i) any return of any tax imposed by the Code; (ii) any administrative adjustment request filed under section 6227; and (iii) any partnership adjustment tracking report under section 6226(b)(4)(A).[227] The term does not include other documents that merely *purport* to be a return, an administrative adjustment request, or a partnership adjustment tracking report. These documents may resemble these filings but do not qualify as valid returns. For example, a draft return that has not been filed with the IRS, an unsigned return, an incomplete return missing required information or schedules, a document submitted in the wrong format or to the wrong IRS office, or a return that has been altered by the preparer after the taxpayer signed may appear similar to a filing but are not treated as returns.

Description of Proposal

The proposal expands the definition of "return" to include any document purporting to be a return of tax, an administrative adjustment request under section 6227, or a partnership adjustment tracking report under section 6226(b)(4)(A). This expansion ensures that return-preparer penalties apply not only to properly filed returns, but also to documents submitted as returns that do not meet all formal requirements. The proposal further clarifies that documents altered by a preparer after the taxpayer has reviewed and signed them are treated as returns for purposes of the preparer-penalty provisions.

Effective Date

The proposal is effective on the date of enactment.

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[227] Sec. 6696(e).

B. Penalties for Failure to Provide Valid Preparer Identification Numbers

Present Law

Under present law, a penalty applies if a tax return preparer fails to furnish a valid identifying number on a return or claim for refund.[228] The penalty is $65 per failure, up to a maximum aggregate penalty of $33,000 per calendar year.[229] The Code, however, does not comprehensively address circumstances in which the identifying number provided is incorrect, expired, revoked, or otherwise invalid. Present law also does not contain a separate penalty or rule governing the use of invalid or improperly appropriated electronic filing identification numbers by electronic return originators. In addition, the definition of "tax return preparer" under the Code generally covers persons who prepare returns or claims for refund for compensation, but the definition does not explicitly encompass documents purporting to be returns.[230]

Description of Proposal

The proposal replaces the existing penalty under section 6695(c) with a more detailed regime applicable when a tax return preparer fails to furnish a valid identifying number on a return or claim for refund. The proposal increases the current $65-per-failure penalty (with a $33,000 annual maximum) to $250 per failure, with a $75,000 annual maximum. A $250 penalty applies for each failure to provide an identifying number that complies with section 6109(a)(4)(A), including circumstances in which the identifying number is assigned to another person, does not exist, is inactive or expired, has been withdrawn, or has been suspended, revoked, or is otherwise invalid. No penalty is required to be imposed if the failure is due to reasonable cause and not due to willful neglect.

The proposal also establishes a new penalty under section 6695(h) applicable to electronic return originators who fail to use a valid electronic filing identification number assigned to them by the Secretary. No penalty is required to be imposed if the failure is due to reasonable cause and not due to willful neglect. For this purpose, an "electronic return originator" is defined as a person who originates the electronic submission of one or more returns or claims for refund on behalf of other taxpayers. Individuals who merely provide mechanical assistance (such as typing or reproduction), employees acting at the direction of an employer, fiduciaries, and persons initiating electronic submissions solely as a result of certain IRS determinations are excluded from the definition. An "electronic filing identification number" is defined as a number assigned by the Secretary to a person authorized to file returns electronically on behalf of taxpayers, and provides that a suspended or revoked number is not treated as valid.

The definition of "tax return preparer" under section 7701(a)(36) is modified to include persons who prepare, for compensation, documents purporting to be returns, in addition to actual

[228] Sec. 6695(c).

[229] *Ibid*.

[230] Sec. 7701(a)(36).

returns or claims for refund. For this purpose, preparation of a substantial portion of any such document is treated as preparation of the return or claim itself.

The proposal directs the Secretary to establish a program to promote voluntary compliance with identifying number requirements and to allow preparers to correct inadvertent errors before penalties are imposed. The program is to be developed in consultation with the National Taxpayer Advocate, low-income taxpayer clinics, and other relevant stakeholders, and is required to include procedures for identifying electronically submitted returns or claims that lack valid identifying numbers and providing preparers an opportunity to supply valid information before penalty assessment.

In addition, the proposal creates a new criminal penalty for willful failure to furnish a valid preparer identifying number or for willfully providing an invalid identifying number with intent to evade or defeat statutory requirements. A violator is guilty of a felony and may be fined up to $50,000 ($100,000 for corporations), imprisoned for up to three years, or both, in addition to the costs of prosecution.

Effective Date

The proposal is effective for returns or claims for refund filed after the date that is 18 months after the date of enactment.

C. Penalties for Improper Tax Preparation or Misappropriation of Refunds

Present Law

Under present law, various assessable penalties apply to tax return preparers for failures relating to the preparation of returns for other persons, including failure to furnish a required copy of a return,[231] failure to sign a return,[232] failure to furnish a proper identifying number,[233] failure to retain a copy of the return or maintain a list of the names and taxpayer identification numbers of the taxpayers for whom returns were prepared,[234] and failure to comply with due diligence requirements.[235] These penalties generally range from $50 per failure to $500 per failure, with annual maximums ranging from $25,000 to $25,500 depending on the provision. These penalty amounts are subject to annual inflation adjustments.[236]

Present law also imposes a penalty on a preparer who improperly negotiates a taxpayer's refund check, but it does not contain a specific penalty addressing broader misappropriation of a taxpayer's refund by a preparer.[237]

Description of Proposal

The proposal increases several existing assessable penalties that apply to tax return preparers. Penalties that currently apply at a $50 rate are increased to $250, and the associated annual maximums are raised to either $50,000 or $75,000, depending on the particular requirement. In addition, the $500 penalty applicable to certain other preparer failures is increased to $1,000. The proposal updates the existing inflation adjustment rules for these penalties by substituting the present-law 2013-based indexing with a 2025 cost-of-living adjustment base year.

The proposal also replaces the existing penalty for improper handling of a taxpayer's refund with a new penalty targeting misappropriation of refund payments. Under the proposal, a tax return preparer who misappropriates a taxpayer's refund is subject to a penalty equal to the greater of $1,000 or the full amount of the misappropriated refund. The fixed dollar amount used in determining this penalty is subject to an annual inflation adjustment. The proposal provides that no penalty applies where a bank deposits the full amount of the refund into the taxpayer's account for the taxpayer's benefit.

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[231] Sec. 6695(a).

[232] Sec. 6695(b).

[233] Sec. 6695(c).

[234] Sec. 6695(d) (imposing a penalty for failure to comply with the return retention requirements of section 6107(b) of the Code).

[235] Sec. 6695(g).

[236] Sec. 6695(h).

[237] Sec. 6695(f).

Effective Date

The proposal is effective on the date of enactment.

D. Authority to Deny, Revoke, or Suspend Preparer Tax Identification Numbers

Present Law

Under present law, a tax return preparer who prepares a return or claim for refund for compensation is required to furnish an identifying number as prescribed by the Secretary.[238] Present law does not provide explicit statutory criteria governing the issuance or renewal of preparer identification numbers and contains no statutory framework for suitability checks, education requirements, State licensing equivalency, or related qualification standards.

Present law also does not establish a statutory process for denying, suspending, or revoking a preparer identification number, and it does not specify grounds for such actions, authorize related monetary penalties, or provide procedures for reinstatement. In addition, present law does not require public disclosure of final determinations involving suspension or revocation of preparer credentials.

Present law contains no requirement that identifying numbers be included on compensated offers in compromise. Further, there is no GAO reporting requirement relating to IRS information sharing with State authorities regarding preparer identification numbers, and present law does not require the IRS to publish common preparer errors or common reasons for preparer penalties or disciplinary actions.

Under present law, the Secretary regulates practice before the Department of the Treasury through Circular 230, which establishes standards of conduct for practitioners (including enrolled agents, certified public accountants, and attorneys, but not uncredentialed paid tax preparers) and provides procedures for disciplinary actions such as censure, suspension, and disbarment.[239]

Description of Proposal

As described in more detail below, the proposal creates a statutory framework governing who may obtain, use, and retain a preparer identification number, including qualification standards that may be satisfied through any one of three routes: (i) meeting Federal suitability and education requirements; (ii) holding a comparable State preparer license; or (iii) qualifying as a specified practitioner. The proposal authorizes the Secretary to deny, suspend, or revoke identification numbers and to impose monetary penalties for misconduct, with procedures for reinstatement and publication of final determinations. The proposal also extends identifying-number requirements to certain compensated filings and includes related reporting, disclosure, and publication obligations.

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[238] Sec. 6109(a)(4).

[239] 31 U.S.C, sec. 330.

Requirements for preparer identification numbers

The proposal requires any compensated preparer to include an identifying number on any return, claim for refund, or document purporting to be such a filing. Identifying numbers that have been suspended or revoked are not valid identifying numbers.

Eligibility and qualification standards

The proposal establishes requirements for the issuance and renewal of preparer identification numbers. Individuals may qualify through any one of three routes: (i) meeting Federal suitability criteria, including background checks and compliance with personal tax requirements, and completing education in ethics, professional responsibility, and tax law; (ii) holding a State license with preparer standards comparable to the Federal suitability and education requirements; or (iii) qualifying as a specified practitioner. Individuals who qualify based on a State license with comparable preparer standards are treated as satisfying the Federal suitability and continuing education requirements and are not required to meet those Federal requirements separately. Specified practitioners include certified public accountants, attorneys, and enrolled agents who are in good standing and authorized to practice before the Treasury.[240] These specified practitioners are treated as satisfying the preparer qualification requirements without meeting the Federal suitability and education criteria. The proposal also provides grandfathering rules for certain existing preparers, specifies limits on the amount and type of annual education that may be required, and sets forth standards and procedures for the approval of qualifying courses and education providers. In addition, the proposal requires the Secretary to publish lists of approved programs and other guidance necessary to implement and administer the preparer identification number requirements.

Authority to deny, suspend, revoke, or penalize

The Secretary is authorized to deny, suspend, or revoke an identifying number, and is authorized to impose monetary penalties, for failure to meet qualification requirements, repeated errors, disreputable conduct, tax delinquencies, criminal offenses, prior penalties or injunctions, or similar misconduct. Penalties of up to $5,000, adjusted for inflation, may apply. A preliminary suspension of up to 180 days may be imposed to prevent serious harm. The Secretary is required to establish reinstatement procedures. Preparers are entitled to an appeal using procedures similar to those under Circular 230.

Publication and disclosure of final determinations

Final determinations involving suspensions or revocations of more than 180 days are required to be published on the IRS website, including the facts and reasons for the determination. Parallel publication rules apply to practitioner discipline under Treasury authorities, requiring the public posting of final disciplinary actions and related information in a manner consistent with the rules governing preparer identification number suspensions and revocations. Disclosure of return information is authorized to the extent necessary to support

[240] Circular 230 applies only to these specified practitioners and does not govern unenrolled or uncredentialed paid preparers. 31 U.S.C, sec. 330.

these publications, subject to required redactions and other safeguards to protect taxpayer privacy.

Identifying numbers for compensated offer in compromise preparers

The proposal requires any offer in compromise prepared for compensation to include the preparer identifying number. A $250 penalty, adjusted for inflation, applies for failure to include a valid identifying number, subject to an annual maximum and reasonable cause relief.

Reporting and publication requirements

The Comptroller General is required to conduct a study on information sharing between the IRS and State authorities regarding preparer identification numbers and preparer standards. The IRS is required to annually publish the ten most frequent preparer errors and the ten most common reasons preparers were penalized or disciplined.

Circular 230

The proposal provides that nothing in the proposal requires the Secretary to eliminate or terminate (1) existing authority under 31 U.S.C. section 330 (implemented through Circular 230) permitting a tax return preparer who prepared and signed a return to represent the taxpayer before the Department of the Treasury, or (2) any existing IRS public database of tax return preparers who have satisfied the PTIN requirements.

Effective Date

The proposal is effective 180 days after the date of enactment. Transitional rules apply for preparers and education providers participating in the Annual Filing Season Program, permitting continued participation for a phase-in period while the new qualification, education, and program-approval standards are implemented.

TITLE VI—APPEALS

A. Authorization for Office of Appeals to Hire Attorneys

Present Law

The Internal Revenue Service Independent Office of Appeals ("Appeals") is headed by the Chief of Appeals. The Chief of Appeals is appointed by and reports to the IRS Commissioner.[241] Appeals traditionally functions as the settlement arm of the IRS. In doing so, it reviews administrative determinations arising from both collection and examination activities and attempts to resolve them without the need for litigation. As a result, review of administrative actions is generally available prior to payment of any tax underlying the controversy.

Appeals has access to legal assistance and advice from staff within the Office of Chief Counsel about cases pending in Appeals. Chief Counsel is responsible for ensuring that the attorneys can provide independent advice. In doing so, to the extent practicable, staff assigned to answer inquiries from the Appeals should not include those involved in advising the IRS employees working directly on the case prior to its referral to Appeals or in preparation of the case for litigation.[242]

The Chief Counsel, who serves as the chief law officer for the IRS, is appointed by the President, by and with the consent of the Senate.[243] The Chief Counsel reports to both the IRS Commissioner and the General Counsel for the Department of the Treasury.[244] All personnel in the Office of Chief Counsel report to the Chief Counsel.[245]

Description of Proposal

Under the proposal, the Chief of Appeals is granted the authority to appoint counsel in Appeals to report directly to the Chief of Appeals. The proposal further provides that any counsel appointed pursuant to this authority shall not report to the Chief Counsel and shall not represent the government in litigation. Further, any legal interpretation of counsel appointed pursuant to this authority is not binding on the Secretary.

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[241] Sec. 7803(e)(2).

[242] Sec. 7803(e)(6)(B).

[243] Sec. 7803(b)(1).

[244] Sec. 7803(b)(3) and 31 U.S.C. sec. 301(f) (General Counsel for Department of Treasury). See also, Treasury Department Order 107-04, providing that all attorneys whose duties include providing legal advice to officials in any office or bureau of the Department are part of the Legal Division under the supervision of the General Counsel, available at https://home.treasury.gov/about/general-information/orders-and-directives/treasury-order-107-04.

[245] Sec. 7803(b)(4).

Effective Date

The proposal is effective on the date of enactment.

B. Authorization for Office of Appeals to Direct Hire Certain Individuals

Present Law

The Internal Revenue Service Independent Office of Appeals ("Appeals"), headed by the Chief of Appeals, traditionally functions as the settlement arm of the IRS. In doing so, it reviews administrative determinations arising from both collection and examination activities and attempts to resolve them without the need for litigation. As a result, review of administrative actions is generally available prior to payment of any tax underlying the controversy. All personnel in Appeals report to the Chief of Appeals.[246]

Description of Proposal

The proposal authorizes the Secretary, without regard to any notice or preference requirements, to use direct hire authority to hire qualified applicants who are not employees of IRS enforcement functions.

Effective Date

The proposal is effective on the date of enactment.

[246] Sec. 7803(e)(6)(A).

C. Response to Claims for Refund Required; Appeal of Claims for Refund Authorized

Present Law

Generally, a claim for credit or refund must be filed within three years of the time the return was filed or within two years of the time the tax was paid, whichever such period expires later.[247] If no return was filed, the claim must be made within two years of when the tax was paid.

Before a suit for refund can be maintained in any court, a claim for refund must first be duly filed with the IRS.[248] Further, no suit may be commenced within six months of the time the claim is filed unless the claim has been disallowed during that six-month period.[249] Nor can a suit for refund be brought after the expiration of two years from the date of mailing by certified mail or registered mail a notice of disallowance to the taxpayer. Under present law, there is no time prescribed by which the IRS must respond to a claim for refund.

Interest is allowed and paid upon any overpayment of tax at the overpayment rate.[250]

Description of Proposal

The proposal requires the IRS to examine timely claims for refund submitted in the form and manner required and mail a notice of determination to the taxpayer's last known address within 12 months or such other date as agreed to by the parties (the "applicable date"). In the case of the disallowance of a refund claim (in whole or in part), the notice must include a detailed explanation for the disallowance, and, in the case of any taxpayer entitled to an appeal of such determination, instructions for appealing the disallowance to Appeals. Any disallowance of a refund claim may, within 30 days after the date such disallowance is mailed (90 days if mailed to an address outside of the United States), be appealed to Appeals. The two-year period for filing suit for refund is suspended during the period an appeal of the disallowance is pending before Appeals (and for 30 days thereafter).

In the case of any claim for refund for which the IRS fails to make a determination by the applicable date, the taxpayer may elect for such claim to be deemed to have been disallowed for purposes of appealing a disallowance to Appeals. Further, in the case of a failure to make a timely determination, the proposal requires the IRS to pay additional interest (an increase in the overpayment rate by an additional one percent, up to $500, annually adjusted for inflation) on any refund due.

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[247] Sec. 6511.

[248] Sec. 7422.

[249] Sec. 6532(a)(1).

[250] Secs. 6611 and 6621.

Frivolous claims are not covered by the requirement to provide a detailed written explanation or access to Appeals. Instead, a written notification of the denial of such claim is to be mailed to the taxpayer by the applicable date. For this purpose, a "frivolous claim" is a claim for refund based on a position that a Federal court has determined to be frivolous and the Secretary has identified as frivolous under section 6702(c) (relating to frivolous tax positions).

Effective Date

The proposal applies to claims for refund received after the date which is 12 months after the date of enactment.

D. Appeals of Returned Offers

Present Law

The IRS may compromise any civil or criminal liability arising under the internal revenue laws prior to a referral of a case to the Department of Justice.[251] An offer in compromise is an agreement between a taxpayer and the government that settles a tax liability for payment of less than the full amount owed.[252]

An offer in compromise has not been rejected until the IRS issues a written notice to the taxpayer or his representative, advising of the rejection, the reasons for rejection, and the right to an appeal. A taxpayer may administratively appeal a rejection of an offer in compromise to Appeals, if within 30 days commencing the day after the date on the letter of rejection, the taxpayer requests an administrative review in the manner provided by the Secretary.[253]

Before an offer can be considered, the IRS requires that a taxpayer (1) file all required tax returns the taxpayer is legally required to file, (2) have received a bill for at least one tax debt included in the offer, (3) make all required estimated tax payments for the current year, and (4) if the taxpayer is a business owner with employees, make all required federal tax deposits for the current quarter and the two preceding quarters.[254] If it is determined that the taxpayer has not filed all required tax returns, the IRS will apply any initial payment sent with the offer to the tax debt and return only the offer and application fee to the taxpayer. When a determination is made to return offer documents because the offer to compromise was nonprocessable, the return of the offer does not constitute a rejection and does not entitle the taxpayer to appeal the matter to Appeals.[255]

Description of Proposal

The proposal requires the IRS to establish procedures for an independent review of any determination that an offer in compromise is not accepted for processing or is otherwise determined to be nonprocessable. This independent review is to take place before such

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[251] Sec. 7122.

[252] IRM 5.8.1.2.1 (09-23-2008).

[253] Treas. Reg. sec. 301.7122-1(f)(5)(i).

[254] See, Internal Revenue Service, *Form 656 Booklet: Offer in Compromise*, Form 656-B (Rev. 4-2026) at page 3, available at https://www.irs.gov/pub/irs-pdf/f656b.pdf ("Before your offer can be considered, you must (1) file all tax returns you are legally required to file, (2) have received a bill for at least one tax debt included on your offer, (3) make all required estimated tax payments for the current year, and (4) if you are a business owner with employees, make all required federal tax deposits for the current quarter and the two preceding quarters. Note: If it is determined you have not filed all tax returns you are legally required to file, the IRS will apply any initial payment you sent with your offer to your tax debt and return only your offer and application fee to you. You cannot appeal this decision.")

[255] Treas. Reg. sec. 301.7122-1(f)(5)(ii).

determination is communicated to the taxpayer. The proposal provides that taxpayers may appeal a determination that an offer is nonprocessable to Appeals.

Effective Date

The proposal is effective on the date of enactment.

E. Purposes and Duties of Independent Office of Appeals; Right of Appeal Clarified

Present Law

In general

The Internal Revenue Service Independent Office of Appeals ("Appeals"), headed by the Chief of Appeals, traditionally functions as the settlement arm of the IRS. In doing so, it reviews administrative determinations arising from both collection and examination activities and attempts to resolve them without the need for litigation. The Code specifically provides that it is the function of Appeals to resolve Federal tax controversies without litigation on a basis which "(1) is fair and impartial to both the Government and the taxpayer, (2) promotes a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and (3) enhances public confidence in the integrity and efficiency of the [IRS]."[256] This resolution process is to be generally available to all taxpayers (the "right of appeal").[257]

Exceptions to Appeals consideration

Treasury regulations set forth 24 numbered categories of exceptions to, or issues that are otherwise ineligible for, consideration by Appeals.[258] If a matter or issue not eligible for consideration by Appeals is present in a case that otherwise is eligible for consideration by Appeals, the ineligible matter or issue will not be considered by Appeals during resolution of the case.

Procedures for protesting a denial of a request for Appeals consideration

If a taxpayer who has received a notice of deficiency requests a referral to Appeals and the request is denied, the Commissioner of Internal Revenue is to provide such taxpayer a written notice which (1) provides a detailed description of the facts involved, the basis for the decision to deny the request, and a detailed explanation of how the basis of such decision applies to such facts, and (2) describes the procedures for protesting the decision to deny the request. This requirement does not apply to a request for a referral to Appeals on the basis that an issue is a frivolous position (within the meaning of section 6702(c)).

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[256] Sec. 7803(e)(3).

[257] Sec. 7803(e)(4).

[258] Treas. Reg. sec. 301.7803-2(c)(1)-(24).

Description of Proposal

The proposal provides that it is the function of Appeals to resolve Federal tax controversies without litigation on a basis that, without exception, evaluates and considers all hazards of litigation in resolving any case referred to Appeals.[259]

The proposal clarifies, except as otherwise provided under the Code, the right of appeal is available to all taxpayers with respect to any determination by the Secretary concerning a Federal tax controversy, including (1) liability for, or any claim for refund of, any tax, (2) liability for, or any claim for refund of, any penalty or addition to tax, (3) eligibility for alternatives to collection of a tax liability, such as an agreement or compromise under section 6159 or 7122, or (4) any exercise of discretion with respect to any determination in (1)-(3).

Subject to certain exceptions, the proposal narrows the 24 categories of matters currently excluded from Appeals consideration under Treasury Regulation section 301.7803-2(c) by tightening several existing exclusions and consolidating others, generally preserving exclusions for matters outside Appeals' authority or core tax-administration function. In general, the proposal provides that the Secretary may restrict access to Appeals with respect to any appeal

- which is solely based on the claimed unconstitutionality of any law, or the claimed procedural invalidity of any regulation, notice, or revenue procedure issued by the Secretary, unless there is a final and unreviewable decision from a Federal court that the item being challenged is unconstitutional or procedurally invalid,
- which is based on a position a Federal court has determined to be frivolous, and the Secretary has identified as frivolous for purposes of section 6702(c) (listing of frivolous tax positions) or relates to any penalty imposed under section 6702 with respect to such position,
- which relates to any matter agreed upon pursuant to a closing agreement,
- during any period in which the Secretary is actively investigating whether to refer the taxpayer to the Attorney General for criminal prosecution, a recommendation made by the Secretary to the Attorney General for the criminal prosecution of the taxpayer for any offense connected with the administration or enforcement of the internal revenue laws is pending, or any criminal prosecution of the taxpayer, or of any other person in a case in which the taxpayer is a witness, for any offense connected with the administration or enforcement of internal revenue laws is pending,[260] or
- with respect to any issue in a case which, based on the relevant facts and circumstances of such case, the Chief Counsel for the IRS has designated for litigation and is prepared to proceed in a timely manner.

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[259] For this purpose, "Federal tax controversy" means a dispute described in paragraph (2) or (3) of Treas. Reg. sec. 301.7803-2 (as in effect on the date of enactment of the Taxpayer Assistance and Service Act).

[260] This exception to the right of appeal does not apply if the Chief Counsel of the IRS determines that resolution by Appeals would not interfere with the criminal prosecution of the taxpayer.

The proposal provides that the Tax Court may direct the parties to request referral to Appeals in any case in which the Tax Court determines that such resolution process is appropriate.

Effective Date

The proposal is effective on the date of enactment.

TITLE VII—WHISTLEBLOWERS

A. Standard and Scope of Review of Whistleblower Award Determinations

Present Law

Whistleblower Office and awards

The Internal Revenue Service ("IRS") may make payments it deems appropriate in order to obtain information leading to detection of underpayment of tax or to detection, trial, and punishment of persons guilty of violating internal revenue laws, where such payments are not otherwise provided for by law.[261] In addition, if the IRS proceeds with administrative or judicial action as a result of such information received from an individual and the proceeds from that action exceed $2 million from either an individual taxpayer whose gross income exceeds $200,000 or any entity, awards are mandatory.[262] Neither the discretionary nor the mandatory awards include interest.

The mandatory awards are for individuals who provide information against any entity or individual regarding violations of the tax laws to the Secretary of Treasury ("the Secretary") and submit claims to the Whistleblower Office. That office was created in 2006 to administer such awards and provide annual reports to Congress on the use of section 7623 and recommendations for possible amendment or approval.[263] A claim for an award must be submitted in writing, under penalties of perjury. Generally, there is an award floor of 15 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) if the IRS moves forward with an administrative or judicial action based on information brought to the IRS's attention by an individual. The maximum award available is 30 percent of the collected proceeds. The amount of the award varies within that prescribed range depending on the degree to which the information contributed substantially to the outcome.

In instances in which the IRS determines that the successful action depended on allegations (other than information provided by the individual) resulting from a judicial or administrative hearing, government report, hearing, audit, investigation, or from the news media, the IRS may award a lesser amount (but no more than 10 percent of proceeds), after taking the individual's contribution into account.[264] If the IRS determines that the whistleblower planned and initiated the activities that resulted in the underpayment of tax, the award may be reduced or, if the whistleblower was convicted of criminal conduct as a result of such planning and initiation, denied entirely.[265]

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[261] Sec. 7623(a) (discretionary awards).

[262] Sec. 7623(b) (mandatory awards).

[263] The Office was created in 2006. Sec. 406(b), the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, December 20, 2006.

[264] Sec. 7623(b)(2) (less than substantial contribution).

[265] Secs. 7623(b)(2) and (3) (participated in the noncompliance activity).

Case status information

Section 6103 allows limited disclosure to whistleblowers of information about the taxpayer who is the subject of the whistleblower information, but only to the extent disclosure is necessary in obtaining information not otherwise available for the determination or collection of tax. In addition, section 6103 requires that the Secretary notify whistleblowers as to the status of their case not later than 60 days after (i) the case has been referred for an audit or examination; and (ii) the taxpayer makes a payment of tax with respect to the tax liability to which the information provided by the whistleblower relates.[266] Subject to any requirements and conditions prescribed by the Secretary, upon written request by the whistleblower and so long as the disclosure would not seriously impair Federal tax administration, the Secretary is authorized to provide information on the status and stage of any investigation and, in the case of a determination of the amount of any award, the reasons for such determination. To ensure taxpayer information is protected, whistleblowers receiving information are subject to the general rule of confidentiality and criminal penalties for unauthorized disclosure of taxpayer information.

Tax Court review of a whistleblower award

A whistleblower whose request for a whistleblower award is denied or issued in an amount lower than requested may seek judicial review of the determination in the United States Tax Court (the "Tax Court"). The petition seeking such review must be made within 30 days of such determination. Review of an award determination may be assigned to a special trial judge.[267] The Tax Court has promulgated special procedural rules to protect the privacy of both the whistleblower and the taxpayer about whom the whistleblower provided information to the IRS.[268] The Tax Court reviews a denial or reduction of a whistleblower reward on the basis of the administrative record and applies the abuse of discretion standard of review (that is, the Court defers to the Whistleblower Office unless an abuse of discretion is found) rather than the *de novo* review generally applicable to deficiency cases.[269]

Civil remedies for retaliation against whistleblower

A whistleblower who suffers retaliation from an employer may seek relief via a civil action.[270] A person who alleges discharge or other reprisal by an employer may file a complaint with the Secretary of Labor (within 180 days after the date on which the violation occurs), and if the Secretary of Labor has not issued a final decision on such complaint within 180 days (and the

[266] Sec. 6103(k)(13).

[267] Sec. 7443A(b)(6).

[268] See Tax Court Rule 345 generally, as well as Rules 27 and 103(a). The Tax Court Rules of Practice and Procedures are available at https://ustaxcourt.gov/files/documents/Complete-Rules-of-Practice-and-Procedure.pdf.

[269] *Kasper v. Commissioner*, 150 T.C. 8 (2018); *Lissack v. Commissioner*, 125 F. 4th 245 (D.C. Cir. 2025), aff'g 157 T.C. 63 (2021).

[270] Sec. 7623(d)(2).

delay is not due to the bad faith of the claimant), an action may be brought in the appropriate district court.[271] The remedies provided are consistent with those currently available under the False Claims Act, including compensatory damages of reinstatement, 200 percent of back pay and all lost benefits, with interest, and compensation for other special damages including litigation costs, expert witness fees, and reasonable attorney fees.[272]

Description of Proposal

The proposal specifies that the judicial standard of review by the Tax Court is *de novo* and the scope of such review is limited to the administrative record on which the original award determination was made, supplemented only by information previously unavailable or newly discovered.

Effective Date

The proposal is effective for petitions filed under section 7623(b)(4) if either pending as of the date of enactment or filed on or after such date.

[271] *Ibid.*

[272] Sec. 7623(d)(3).

B. Exemption from Sequestration

Present Law

Under the Balanced Budget and Emergency Deficit Control Act of 1985 ("Deficit Control Act"),[273] Congress authorized the Executive to enforce certain Federal spending limits and deficit reduction targets using sequestration orders. Section 255[274] of the Deficit Control Act identifies programs and activities that are exempt from sequestration.

For a description of present law relevant to whistleblowers, see the discussion above under Title VII.A, "Standard and scope of review of whistleblower award determinations."

Description of Proposal

The proposal amends Section 255 of the Deficit Control Act to provide that awards made pursuant to Code section 7623 are exempt from any sequestration order.

Effective Date

The proposal is effective for sequestration orders issued under the Deficit Control Act after the date of enactment.

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[273] Pub. L. No. 99-177; 2 U.S.C. 900 *et seq*.

[274] 2 U.S.C. sec. 905.

C. Whistleblower Privacy Protections

Present Law

Proceedings in Tax Court are expected to proceed in open court.[275] Whistleblower proceedings in Tax Court may be conducted anonymously, if the Court finds it appropriate to do so. To protect anonymity, the whistleblower must file a motion in which a sufficient, fact-specific case for anonymity is made, in accordance with Tax Court Rule 357.

For a description of present law relevant to whistleblowers, see the discussion above under Title VII.A, "Standard and scope of review of whistleblower award determinations."

Description of Proposal

The proposal requires that a whistleblower proceed anonymously in any Tax Court proceeding to review a determination regarding a whistleblower reward, unless the Court finds that there is a societal interest in disclosing the identity of the whistleblower that exceeds the potential harm that disclosure would cause to him or her.

Effective Date

The proposal is effective for petitions filed under section 7623(b)(4) if either pending as of the date of enactment or filed on or after such date.

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[275] Sec. 7461.

D. Modification of IRS Whistleblower Report

Present Law

Each year the Whistleblower Office is required to report to Congress on the use of section 7623 in the preceding year, including the results of such use. The report also is expected to include administrative or legislative recommendations for the program and its application.[276]

For a more detailed description of present law relevant to whistleblowers, see Title VII.A, "Standard and scope of review of whistleblower award determinations."

Description of Proposal

The Whistleblower Office is required to include in its annual report a list of up to ten of the top tax avoidance schemes disclosed by whistleblowers during the year in question.

Effective Date

The proposal is effective for reports for fiscal years ending after the date of enactment.

[276] Sec. 406(c), the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, December 20, 2006.

E. Interest on Whistleblower Awards

Present Law

At present, the IRS has no authority to pay interest on whistleblower awards made under section 7623.

For a description of present law relevant to whistleblowers, see the discussion above under Title VII.A, "Standard and scope of review of whistleblower award determinations."

Description of Proposal

Under the proposal, a whistleblower who is entitled to a mandatory award may also be entitled to payment of interest at the rate applicable to overpayments of tax if the IRS fails to give timely notice of a preliminary determination with respect to the claim for such award. The notice of such determination is due by an applicable date defined in the proposal as a date that is both (1) 12 months after all proceeds are collected from the action taken based on the information from the whistleblower, and (2) after the date on which the taxpayer no longer has a right to pursue a refund, either because the time has elapsed in which the taxpayer could claim a refund or initiate a refund suit or because the taxpayer reached a final settlement of the tax liability in question and waived any right to seek a refund. Interest accrues for the period from the applicable date until the date on which such notice is given. No interest accrues after such notification.

Effective Date

The proposal is generally effective 180 days after the date of enactment. A special rule applies to a case in which the applicable date has passed with no notification from the IRS as of the effective date. In such cases, a new applicable date of one year after the effective date is deemed to apply.

F. Correction Regarding Deductions for Attorney's Fees

Present Law

In providing information to the IRS about a taxpayer's noncompliance and later pursuing an award for such cooperation, whistleblowers frequently retain legal assistance and incur fees, regardless of whether they seek review in Tax Court. The Code authorizes a deduction for attorneys' fees and costs paid by, or on behalf of, the individual in connection with any mandatory award for providing information regarding violations of the tax law, but not fees incurred with respect to a discretionary award. This deduction is allowed in computing adjusted gross income and is therefore subject neither to the limitation of miscellaneous deductions nor the requirement that the taxpayer itemize deductions.[277] The amount that may be deducted in computing adjusted gross income may not exceed the amount includible in the taxpayer's gross income for the taxable year on account of such award (whether by suit or agreement and whether as lump sum or periodic payments). Attorney fees incurred in pursuing one of the remedies against retaliation or unlawful discrimination may also be deducted in computing adjusted gross income, up to the amount of the award or settlement.[278]

For a description of present law relevant to whistleblowers, see the discussion above under "Standard and scope of review of whistleblower award determinations."

Description of Proposal

The proposal changes the cross-reference to section 7623(b) in section 62(a)(21) to a cross-reference to the entire section, so that attorneys' fees related to pursuing an award in the whistleblower program are deductible in computing adjusted gross income, regardless of whether the award was discretionary or mandatory.

Effective Date

The proposal applies to taxable years ending after the date of enactment.

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[277] Sec. 62(a)(21).

[278] Secs. 62(a)(20) and 62(e).

TITLE VIII—HOSTAGES

A. Postponement of Tax Deadlines for Hostages and Individuals Wrongfully Detained Abroad

Present Law

General rules establishing Code deadlines

The United States tax system generally relies upon self-reporting and assessment. For most individuals, that self-reporting is in the form of an income tax return. Persons required to file income tax returns[279] must file such returns in the manner prescribed by the Secretary, with any payment due, in compliance with due dates established in the Code, if any, or by regulations. The Code includes a general rule that requires income tax returns to be filed on or before the 15th day of the fourth month following the end of the taxable year, but certain exceptions are provided both in the Code and in regulations.[280]

The Code also establishes the limitation periods within which the Internal Revenue Service ("IRS") must perform its various administrative duties, such as assessment of taxes, interest, and any additions to tax or penalties related to the taxes and collection of such taxes, interest and additions to tax. Taxes are generally required to be assessed within three years after a taxpayer's return is filed, regardless of whether it was timely filed.[281] Several exceptions may prevent the three-year limitation period from beginning, including failure to file a return or filing a false or fraudulent return with the intent to evade tax. In those cases, the tax may be assessed, or a proceeding in court for collection of such tax may commence without assessment, at any time.[282] After the taxes are finally determined, whether it is through alternative payment methods, or enforced collection activity, the IRS must collect within 10 years from the date of assessment of tax.[283] A refund or credit is authorized for a taxable year only if an overpayment exists, that is, if the amounts paid or deemed paid exceed the tax liability for that year and a claim for such amount is timely made.[284]

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[279] Section 6012 provides general rules identifying who must file an income tax return.

[280] Secs. 6072 (prescribing deadlines for filing income tax returns) and 6081 (authorization of extensions of time to file, provided tax estimated to be due is paid with the application for extension).

[281] Sec. 6501(a). Returns that are filed before the date they are due are deemed filed on the due date. See sec. 6501(b)(1) and (2).

[282] Sec. 6501(c)(1), (2) and (3).

[283] Sec. 6502.

[284] Secs. 6402 (authority for refunding an overpayment) and 6511 (limitations period for filing a claim, including both a timely filing requirement and a lookback period to determine amounts eligible to be refunded).

Special rules authorizing extensions of time for required events in the Code

In computing the time within which they must complete an action required or prescribed by the Code, persons who serve in the United States Armed Forces or in support of the Armed Forces are entitled to disregard their period of service while in designated combat zones[285] or serving overseas in a contingency operation designated as such by the Secretary of Defense,[286] and the 180 days succeeding such period. For this purpose, periods of hospitalization that result from such service are included in the time that may be disregarded. The period that may be disregarded by the taxpayer is also disregarded in determinations by the IRS of the amount of any underpayment interest, penalty, additional amount, or addition to tax, and the amount of any credit or refund. Special rules apply for the period a person is in missing status,[287] for certain limitations on refunds or collection actions[288] as well as application of this provision to the spouse of the taxpayer.[289]

The Code specifies a number of actions for which the specified periods of time may generally be disregarded. These actions include those required of taxpayers as well as those performed by the IRS. The former include actions such as the filing any return of income, estate, gift, employment, or excise tax; filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court; and actions related to refunds, such as filing a claim or bringing suit upon such claim. Actions by the IRS for which a deadline is extended include the assessment of any tax and related notices, such as notice and demand for payment or collection of the tax; the allowance of a refund; and bringing suit by the United States in respect of any liability in respect of any tax. In addition, the statute includes a residuary clause that permits the Secretary to designate any other act required or permitted under the internal revenue laws as within the scope of section 7508(a).[290]

Another provision of the Code, relating to disasters, mandates a 60-day extension and authorizes the Secretary to specify a period of up to one year that may be disregarded for performing various acts under the Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for eligible taxpayers. To qualify for this extension, an eligible taxpayer must be affected by a Federally declared disaster, a significant fire, or a terroristic or military action.[291] The limited relief from deadlines under this disaster extension applies to the same list of actions for which the specified time is disregarded for persons in combat zones.

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[285] Sec. 112.

[286] Sec. 7508.

[287] Sec. 7508(d).

[288] Secs. 7508(b) and (e).

[289] Sec. 7508(c).

[290] Sec. 7508(a)(1). In addition, Revenue Procedure 2018-58 supplements the list of postponed acts in section 7508(a)(1) and Treasury Regulation section 301.7508A-1(c)(1) with an additional list of time-sensitive acts.

[291] Sec. 7508A.

Present law regarding persons held hostage or wrongfully detained.

Neither the provision on service in a combat zone nor the rules on disaster relief address difficulties of persons who fail to meet a tax filing or payment deadline that arises while they are unlawfully or wrongfully detained abroad. Federal law provides a set of criteria for determining whether a United States national[292] is a wrongfully detained person. Such determination requires the involvement of the Hostage Recovery Fusion Cell, a multi-agency entity that addresses coordination of efforts to identify and recover those held hostage or wrongfully detained. Generally, if the person detained is held by a sovereign entity, determination of whether such person is wrongfully detained rests with the Secretary of State using prescribed criteria. Hostage status is determined by the Hostage Recovery Fusion Cell, under the leadership of the Federal Bureau of Investigation.[293]

Description of Proposal

The proposal adds a new Code provision that extends due dates for hostages and persons wrongfully detained by providing that the period of detention is disregarded in determining deadlines, interest, penalties for the person, similar to the rules applicable to a person deployed in a combat zone, including incorporating the list of events to which the special rules apply from section 7508. Similar to that provision, it extends such relief to the spouse of the hostage or detainee. The class of applicable persons is defined by reference to provisions of Title 22 on wrongfully detained persons or hostages.

In the new relief statute, the period that may be disregarded in redetermining time limits is the entire period in which the person was held hostage or wrongfully detained during any taxable year ending after date of enactment. That period is generally disregarded for the events identified in the list in present law section 7508(a), however it is not disregarded for purposes of computing overpayment interest. In addition, special rules apply to ensure that the limitations period for claiming an overpayment remain open with respect to a return deemed to be timely under this provision.

The proposal uses the term "applicable individual" to describe a person entitled to the extension. A person is an applicable individual if that person is either determined to be wrongfully detained under section 302 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act or is determined to be a hostage under findings of the Hostage Recovery Fusion Cell. The class of applicable individuals consists of persons who are identified on reports provided to the Secretary. The proposal requires the Secretary of State to provide a list of persons wrongfully detained, together with any identifying information available. The Attorney General, through the Hostage Recovery Fusion Cell, is required to provide a similar

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[292] 22 U.S.C. 1741e defines "United States national" to mean both citizens and certain noncitizens within the scope of 8 U.S.C. secs. 1101(a)(22) and 1408 as well as lawful permanent residents with significant ties to the United States.

[293] Secs. 302 and 304 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act, Pub. L. No. 116–260, div. FF, title III, sec. 301, Dec. 27, 2020, 134 Stat. 3091, codified at 22 U.S.C. 1741 through 1741f.

list of persons believed to be hostages. The initial report is due January 1, 2027 with further reports due annually.

In addition to establishing a basis for relief from certain deadlines prescribed by the Code for taxpayers identified as applicable persons, the new proposal also provides relief to persons from whom additional amounts, additions to tax, interest, or penalties were assessed or collected with respect to a tax liability for years ending during the wrongful detention but before the person was identified as an applicable individual. In such cases, the Secretary is directed to abate and refund any such amounts as overpayments in the same manner as would apply under section 6402.

Finally, the proposal also requires the Secretary to ensure that databases and information systems are updated to permit proper tracking of deadlines and limitations periods applicable to persons within the scope of the relief contemplated in the proposal.

Effective Date

The proposal is generally effective for applicable individuals for taxable years ending after the date of enactment.

B. Refund and Abatement of Penalties and Fines Paid by Eligible Individuals

Present Law

For a discussion of present law, see Title VIII.A, "Postponement of tax deadlines for hostages and individuals wrongfully detained abroad," above.

Description of Proposal

The proposal directs the Secretary, in consultation with the Secretary of State and the Attorney General to initiate a program not later than January 1, 2027, under which persons who were detained during an applicable period may seek refunds of certain amounts assessed with respect to those tax years. The applicable period is the period beginning January 1, 2021 and ending before date of enactment. This program is to be available to eligible individuals (persons who would have been applicable individuals but for the taxable years involved) as well as dependents and spouses of eligible individuals.

The eligible individuals are to be identified by the Secretary of State and Attorney General, acting through the Hostage Recovery Fusion Cell, in reports similar to those required with respect to applicable individuals. A person may be both an applicable individual with respect to a taxable year ending after date of enactment and an eligible individual with respect to an earlier taxable year within the applicable period. Once such persons are identified, these people are entitled to notice of the potential relief within 90 days from their release from captivity, or, if released prior to date of enactment, within 90 days of enactment.

After receiving notice of the program, eligible individuals are permitted to seek abatement of assessments of additional amounts, penalties, additions to tax or interest, or refund of such amounts assessed with respect to taxable years within the applicable period. The limitations period for filing a claim for refund or seeking abatement is extended, so that it expires no earlier than one year from the notice issued to the eligible individual. Furthermore, the look-back period for determining payments that may be within the scope of a refund claim is not applicable.

Effective Date

The special program for notifications, refunds or abatements to eligible individuals for the applicable period from January 1, 2021, through date of enactment, is effective for taxable years ending on or before the date of enactment.

TITLE IX—SMALL BUSINESSES

A. Implementation of Voluntary Withholding Agreements for Payments to Independent Contractors

Present Law

Independent contractors are not subject to wage withholding. Instead, independent contractors are required to make estimated tax payments during the year. The Secretary is authorized to issue guidance describing payments that do not constitute wages for which withholding under a voluntary withholding agreement would be appropriate and authorizing payors to agree to withhold income tax on such payments if requested by the payee.[294] However, the Secretary has not issued such guidance.

Description of Proposal

The proposal expressly permits voluntary withholding on applicable non-wage remuneration. If, at the time a payment of applicable non-wage remuneration is made to any person, there is a voluntary withholding agreement in effect between the person making the payment and the person receiving the payment as non-wage remuneration, then for purposes of chapter 24 (and so much of subtitle F as relates to chapter 24), such payment is treated as if it were a payment of wages by an employer to an employee.[295] "Applicable non-wage remuneration" means remuneration for services performed by an individual which, absent this proposal, would not be considered wages. The proposal also directs the Secretary to issue regulations or guidance, not later than 18 months after the date of enactment, as may be necessary or appropriate to carry out the proposal, including guidance on the amount to be deducted and withheld and the types of payments considered to be applicable non-wage remuneration.

Effective Date

The proposal is effective on the date of enactment.

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[294] Sec. 3402(p)(3) and Treas. Reg. sec. 31.3402(p)-1(c) ("The Secretary may issue guidance by publication in the Internal Revenue Bulletin (IRB) (which will be available at www.IRS.gov) describing other payments for which withholding under a voluntary withholding agreement would be appropriate and authorizing payors to agree to withhold income tax on such payments if requested by the payee.")

[295] Chapter 24 relates to the collection of income tax at the source and subtitle F relates to procedure and administration.

B. Extension of Mailbox Rule to Electronic Submissions and Payments

Present Law

In general

Present law defines when a return, claim, statement, or other document, or payment sent pursuant to the Code is considered timely.[296] A document generally is considered timely filed and payment is considered timely made when the filing or payment is received by the IRS on or before the due date of the return. As discussed in further detail below, if the requirements of the Code are met, timely mailing is treated as timely filing and timely paying, colloquially known as the "mailbox rule."[297]

Under present law, if a document or payment is delivered by the United States Postal Service ("USPS"), the document or payment is considered timely if the postmark date falls on or before the prescribed due date, regardless of when it is deposited in the mail,[298] and if it is properly packaged and addressed with prepaid postage.[299] If the postmark is made other than by the USPS, the document or payment is timely if the postmark is legible and the agency receives it no later than it would normally receive mail of the same class sent through the USPS that is postmarked on the prescribed due date.[300] If a document or payment is sent by registered mail, the dated registration statement is prima facie evidence of delivery and the date of registration is deemed the postmark date.[301] If a document or payment is sent by certified mail, the postmark date is the date stamped on the receipt by the postal employee.[302] If a document or payment is sent by a private delivery service, the Secretary of the Treasury (the "Secretary") may deem the delivery service as equivalent to the USPS for purposes of the mailbox rule, but only if the service is available to the general public, is as timely and reliable as USPS, records the date it receives mail for delivery, and meets criteria prescribed by the Secretary.[303]

Electronic filings and payments

The mailbox rule, as set forth in the Code and regulations, does not cover electronic payments or electronic filings made other than through an electronic return transmitter. Instead, the mailbox rule applies only to mail delivered by the USPS, unless otherwise authorized by the

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[296] Sec. 7502(a), Treas. Reg. sec. 301.7502-1(a).

[297] Sec. 7502.

[298] Sec. 7502(a), Treas. Reg. sec. 301.7502-1(c)(1)(2).

[299] Sec. 7502(a)(2)(B), Treas. Reg. sec. 301.7502-1(c)(1)(2).

[300] Treas. Reg. sec. 301.7502-1(c)(1)(iii)(B).

[301] Sec. 7502(c)(1).

[302] Treas. Reg. sec. 301.7502-1(c)(2).

[303] Sec. 7502(f), Treas. Reg. sec. 301.7502-1(c)(3). Additionally, special rules apply to deposits required to be made to a financial institution. Sec. 7502(e).

Secretary. For electronic delivery, the Code authorizes the Secretary to define the postmark date and evidence of delivery regarding electronic filings, but does not expressly address electronic payments.[304] Acting under such authorization, the Secretary has promulgated rules in the specific case of electronic return transmitters, deeming the electronic postmark date the date that an authorized electronic return transmitter receives the transmission of a taxpayer's electronically filed document on its host system, regardless of when it is received by the IRS.[305]

Description of Proposal

The proposal extends the timely-mailing rule to certain electronic submissions and electronic payments. If a document or payment, including submissions made for appeals, that the Secretary permits to be filed or made electronically is authorized by the taxpayer to be submitted to the appropriate agency, officer, or office on or before the prescribed filing or payment date (including any applicable period), and the electronic submission or payment is received, or in the case of a payment, received and accounted for, no later than three business days after that prescribed date or period, the date of the taxpayer's authorization to submit electronically is treated as the date the document is filed or the payment is made.

The safe harbor does not apply to a payment if the Secretary determines that the taxpayer, or any intermediary used by the taxpayer, employed a system designed with a principal purpose of delaying the transfer of funds to the Treasury to obtain an economic benefit from the delay.

The Secretary is required to issue regulations or other guidance within one year after enactment to implement these rules, including guidance describing records or proof sufficient to establish the date of timely electronic submission.

Effective Date

The proposal applies to any document or payment sent on or after the date that is one year after the date of enactment.

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[304] Sec. 7502(c)(2).

[305] Treas. Reg. sec. 301.7502-1(d)(1), (3)(ii). The Commissioner may authorize specific electronic return transmitters to provide taxpayers with electronic postmarks to acknowledge the date and time that the electronic return transmitter received the electronically-filed document. Treas. Reg. sec. 301.7502-1(d)(2).

C. Specificity of Third-Party Contact Notices

Present Law

Under present law, the IRS may not contact any person other than the taxpayer regarding the determination or collection of the taxpayer's tax liability without first providing the taxpayer with reasonable advance notice that such third-party contacts may be made.[306] The IRS is also required to provide the taxpayer periodically, and upon request, with a record of persons contacted during the applicable period in connection with the determination or collection of the taxpayer's tax liability.

Present law does not require the IRS to identify in the advance notice the specific information it intends to request from a third party, nor does it require the IRS to state whether the information sought could reasonably be obtained from the taxpayer. The law likewise does not prescribe a minimum response period before the IRS may make third-party contacts.

The advance-notice requirement does not apply in certain circumstances, including criminal tax investigations, situations in which collection is in jeopardy, cases in which the taxpayer has authorized the contact, or where the Secretary determines for good cause that providing notice may lead to reprisal against any person, cause the taxpayer to flee, or result in the concealment, alteration, or destruction of records or assets.

Description of Proposal

The proposal modifies the rules governing the IRS requirement to notify a taxpayer before contacting third parties to obtain return or return information regarding the taxpayer. Under the proposal, the pre-contact notice is required, in any case in which the information sought from third parties could reasonably be provided by the taxpayer, to identify the specific item of information that the IRS intends to seek from such third parties.

The proposal also amends the requirement that taxpayers be given a reasonable opportunity to respond before the IRS makes third-party contacts. As modified, the IRS is required to provide the taxpayer with a period of not less than 45 days (or more, if the taxpayer requests additional time and shows reasonable cause) to respond, including by providing the information identified in the notice.

The proposal further modifies the existing exceptions to the pre-contact notice requirement. Specifically, it clarifies that "good cause" for bypassing the notice includes a reasonable belief that providing notice will lead to attempts by any person to: (i) conceal, remove, destroy, or alter relevant records or assets; (ii) prevent other persons, through intimidation, bribery, or collusion, from communicating relevant information; or (iii) flee or otherwise avoid providing testimony or producing relevant records.

[306] Sec. 7602(c).

Effective Date

The proposal applies to notices provided after the date that is 12 months after the date of enactment.

TITLE X—MISCELLANEOUS

A. Authority for Redisclosure of Certain Tax Information Related to Education Loans to the Congressional Budget Office

Present Law

Returns and return information are confidential and cannot be disclosed except as authorized by Title 26. Upon written request from the Secretary of Education, the IRS discloses specific items of return information to the Secretary of Education for three Federal aid programs under title IV of the Higher Education Act of 1965: (1) determining eligibility for, or repayment obligations under, income contingent or income based repayment plans for existing student loans; (2) monitoring and reinstating loans under title IV of the Higher Education Act of 1965 that were discharged based on a total and permanent disability; and (3) eligibility for and determining amount of federal student financial aid pursuant to completion of a Free Application for Student Financial Aid ("FAFSA") with consent to redisclose return information to designated institutions of higher education (i.e. schools and universities financial aid offices), State agencies of higher education and designated scholarship organizations.[307] Among other specified purposes, the Department of Education also may use the information for the purpose of conducting analyses and forecasts for estimating costs related to the three programs.[308]

This provision of section 6103 was enacted by the Fostering Undergraduate Talent by Unlocking Resources for Education Act (the "FUTURE Act") and implementation began in 2024.[309] As a result, the return information obtained by the Department of Education from the IRS in the FAFSA is confidential and can be disclosed only as authorized by section 6103. Prior to the use of confidential return information from the IRS, the Congressional Budget Office received FAFSA income information from the Department of Education for purposes of its analyses and forecasts of the cost of student loan programs and Federal Pell grants.[310] After the enactment of the FUTURE Act, the Congressional Budget Office is not authorized to receive confidential return information from the Department of Education.

Description of Proposal

The proposal amends section 6103(l)(13)(D) to permit, upon written request from the Director of the Congressional Budget Office, authorized persons of the Department of Education[311] to redisclose return information received by the Department of Education to

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[307] Sec. 6103(l)(13).

[308] Sec. 6103(l)(13)(D)(i)(III).

[309] Pub. L. No. 116-91, sec. 3, December 19, 2019.

[310] Testimony of Phillip L. Swagel, Director Congressional Budget Office, Subcommittee on the Legislative Branch, Committee on Appropriations, U.S. House of Representatives hearing on "The Congressional Budget Office's Request for Appropriations for Fiscal Year 2027" (March 18, 2026) at page 3 available at https://www.cbo.gov/system/files/2026-03/62153-budget-request-testimony.pdf.

[311] The term "authorized persons" is specifically defined in section 6103(l)(13)(E).

officers and employees of the Congressional Budget Office. Such disclosure is allowed only to the extent necessary for the purpose of conducting analyses and forecasts for estimating costs related to the three Federal aid programs noted above (income-based and income contingent student loans, discharges of loans based on total and permanent disability, and FAFSA).

In order for the IRS to properly account for the disclosures of return information being made to CBO, the proposal requires the Secretary of Education to annually submit a report to the Secretary of the Treasury regarding redisclosures made to CBO, including the number of such redisclosures and regarding any unauthorized use, access or disclosure of return information disclosed under section 6103(l)(13).

Effective Date

The proposal applies to disclosures made after the date of enactment.

B. Authorization to Require Large Partnerships to File on Magnetic Media

Present Law

Section 6011(e) requires certain returns to be filed on magnetic media (which includes electronic filing). As a result of separate amendments made by the Taxpayer First Act[312] and the SECURE Act,[313] section 6011(e) contains two provisions designated as paragraph (6).

Under the first paragraph (6), partnerships with more than 100 partners are required to file on magnetic media.[314] Present law does not include an asset-based requirement or a lower partner threshold.

The second paragraph (6) addresses unrelated filing requirements, resulting in a numbering conflict.[315]

Description of Proposal

The proposal replaces the first paragraph (6) of section 6011(e) with a new provision requiring partnerships to file on magnetic media if, at the close of the taxable year: (i) the partnership has more than 50 partners, or (ii) the value of the partnership's assets equals or exceeds $1,000,000, as determined under regulations.

The proposal also redesignates the second paragraph (6) as paragraph (7) to eliminate the duplicate numbering.

Effective Date

The proposal applies to returns filed on or after January 1 of the first calendar year beginning after the date of enactment.

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[312] Pub. L. No. 116–25, sec. 2301(b), July 1, 2019.

[313] Pub. L. No. 116–94, div. O, sec. 202(d), December 20, 2019.

[314] Pub. L. No. 116-25, sec. 2301(b), July 1, 2019.

[315] Pub. L. No. 116-94, div. O, sec. 202(d), December 20, 2019.

C. Limitations Period Not Extended for Victims of Preparer Fraud

Present Law

Section 6501 specifies the period of limitations for assessment of any tax imposed under the Code. In general, the limitations period is three years after the taxpayer files the return, increased to six years in cases of substantial omissions from the tax return. Exceptions to these rules include a fraud exception, permitting assessment of tax at any time "[i]n the case of a false or fraudulent return with the intent to evade tax[.]"[316]

Courts have addressed the issue of whether the fraud exception applies if the taxpayer whose tax liability is in question is not accused of fraud. In the United States Tax Court, the fraud exception is triggered if there is fraud on the return, regardless of whether the taxpayer was the fraudulent actor. In *Murrin v. Commissioner*,[317] a taxpayer who filed a return that included fraudulent information on advice of a paid return preparer was unsuccessful in contesting the timeliness of the government's assertion that the fraud exception applied due to the fraudulent intent of the preparer. Similarly, a taxpayer who signed a joint return was unsuccessful in challenging the timeliness of a notice of deficiency issued to her based on the spouse's fraudulent intent.[318] In contrast, in the Court of Federal Claims, a taxpayer successfully argued that the fraudulent intent of an outside counsel was insufficient grounds for the government contention that the limitations period was tolled.[319]

Description of Proposal

The proposal restricts the limitations period exception for false or fraudulent returns to cases in which the intent to evade tax is that of the taxpayer. However, in the case of a joint return under section 6013, the intent by either spouse to evade tax with respect to such return shall be treated as intent of both taxpayers, and the limitations period exception for false or fraudulent returns shall apply to both spouses.

Effective Date

The proposal applies to assessments made and proceedings begun after date of enactment.

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[316] Sec. 6501(c)(1).

[317] *Murrin v. Commissioner*, T.C. Memo. 2024-10, aff'd 158 F.4th 527 (3d Cir. 2025), *cert*. denied Sup. Ct. Dkt. No. 25-988 (June 22, 2026).

[318] *Li v. Commissioner*, T.C. Memo. 2026-42.

[319] *BASR Partnership v. United States*, 113 Fed. Cl. 181 (2013), aff'd 795 F.3d 1338 (Fed Cir. 2015).

D. Technical Amendment Related to the Disaster Related Extension of Deadlines Act

Present Law

Section 7508A, as amended by the Disaster Related Extension of Deadlines Act, includes a subsection designated as subsection (f).[320] Due to the structure of the prior amendment, this subsection was intended to be placed at the end of section 7508A, but its current placement results in a numbering inconsistency within the subsection sequence.

Description of Proposal

The proposal corrects the numbering of section 7508A by redesignating subsection (f), as added by the Disaster Related Extension of Deadlines Act, as subsection (g). The proposal makes no substantive change and serves only to align the subsection numbering with the intended statutory structure.

Effective Date

The proposal takes effect as if it had been included in section 2(a) of the Disaster Related Extension of Deadlines Act.

[320] Pub. L. No. 119–64, sec. 2(a), December 26, 2025.