

## Grassley Amendment

**Grassley Amendment #1** to the Taxpayer Protection Act of 2016

Cosponsors: Thune

**Short Title:** Increase in Criminal penalty for unauthorized disclosure or inspection.

**Description of Amendment:** Under section 7213 of the Internal Revenue Code, willfully making an unauthorized disclosure of confidential taxpayer information is a felony punishable by a fine of up to \$5,000 and/or imprisonment for up to 5 years. A lower penalty exists under section and 7213A for willful unauthorized inspection of taxpayer information of up to a \$1,000 fine and/or imprisonment for up to 1 year. The maximum \$5,000 fine for unauthorized disclosure was set in 1976 and would be greater than \$20,000 today based on inflation. This provision increases the maximum fine for unauthorized disclosure to \$20,000. It further increases the maximum fine for unauthorized inspection to \$5,000. This provision is contained in section 201 of S.1578

## Grassley Amendment

**Grassley Amendment #2** to the Taxpayer Protection Act of 2016

Cosponsors: Thune

**Short Title:** TIGTA audit/investigation notifications to alleged victim.

**Description of Amendment:** TIGTA frequently engages in audits or investigations about allegations of violations of taxpayer rights by IRS employees and in some instances third parties, such as in cases of identity theft. Often the alleged victim is prohibited from receiving any information about the existence of such an investigation and its conclusions due to taxpayer privacy rules under Section 6103 of the Internal Revenue Code. This provision would amend 6103 of the Internal Revenue Code to authorize the Treasury secretary to provide status updates, and in certain instances require status updates, regarding the investigation, the violation being investigated, and conclusion of the investigation. A similar, but much more limited provision was enacted into law in Section 403 of the Protecting American from Tax Hikes Act of 2015. The new law only works should the taxpayer know that their rights have been violated as it only provides disclosure if the taxpayer contacts the IRS. Grassley Amendment 2 imposes an affirmative duty to inform the taxpayer if the abuses are substantiated. If, for example, a taxpayer's information is inappropriately accessed by an IRS employee, the taxpayer is unlikely to know this has happened and unlikely to contact the IRS. This provision is contained in section 503 of S.1578.

## Grassley Amendment

**Grassley Amendment #3** to the Taxpayer Protection Act of 2016

Cosponsors: Thune

**Short Title:** Notification of unauthorized inspection or disclosure of returns and return information.

**Description of Amendment:** Under section 7431 of the Internal Revenue Code, the secretary is only required to notify a taxpayer about unauthorized inspection or disclosure of their taxpayer information should the offending party be criminally charged. This amendment would modify the notification to require the secretary to notify a taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination. Requiring this notification will enhance the ability of a taxpayer to exercise their rights under IRC 7431 to bring a civil action for unauthorized inspection or disclosure. This provision is contained within section 202 of S.1578

## Grassley Amendment

**Grassley Amendment #4** to the Taxpayer Protection Act of 2016

Cosponsors: Thune

**Short Title:** Modification and increase in civil damages for unauthorized disclosure or inspection.

**Summary:** Under section 7431 of the Internal Revenue Code, a taxpayer may bring a civil action against the United States for damages related to the unauthorized inspection or disclosure of taxpayer information by a federal employee. If the disclosure is by a person who is not a federal employee, the taxpayer may bring a claim against such person. Statutory damages of \$1,000 or actual damages may be awarded for both unauthorized inspection and disclosure. This amendment increases statutory damages in cases of unauthorized inspection to \$5,000. Additionally, in recognition of the greater invasion of privacy that results from public disclosure of taxpayer information rather than mere inspection, this provision raises the available statutory damages of unauthorized disclosure to \$10,000. The amendment also allows for the award of punitive damages in addition to statutory damages in instances of willful or gross negligence with respect to either unauthorized inspection or disclosure. This provision is contained within section 202 of S.1578

## Grassley Amendment

**Grassley Amendment #5** to the Taxpayer Protection Act of 2016

Cosponsors: Thune

**Short Title:** Modification and increase in civil damages for unauthorized collection actions.

**Description of Amendment:** Under section 7433 of the Internal Revenue Code, taxpayers may bring a civil damages suit against the IRS for unauthorized collection actions. One prominent tax publication has referred to this provision as the “toothless tiger” because often times a taxpayer may not discover the unauthorized nature of a collection prior to the statute of limitations has already run. This provision seeks to remedy this concern by clarifying that the 2 year statute of limitations only begins to run once the taxpayer reasonably could have discovered the collection was unauthorized and tolling the statute of limitations while the taxpayer exhausts his/her administrative remedies. The provision also increases the maximum recoverable damages from \$100,000 to \$150,000 for negligent actions and \$1 million to \$1.5 million for willful actions and would allow for punitive damages. This provision is contained within section 301 of S.1578.

## Grassley Amendment

**Grassley Amendment #6** to the Taxpayer Protection Act of 2016

Cosponsors: Wyden

**Short Title:** To improve communications with IRS whistleblowers.

**Description of Amendment:** To improve IRS communication with whistleblowers this amendment would amend section 6103 of the Internal Revenue Code to: (1) specifically allow the IRS to exchange information with whistleblowers where doing so would be helpful to an investigation; (2) Require the Secretary to notify the whistleblower as the status of their claim at two significant points in the review process: (i) when the claim has been referred to an audit or examination; and (ii) at the point where the taxpayer makes a payment to settle the tax liability, but before the refund statute expires. The secretary would have the authority, but not be required, to provide status updates at other points in the review process. To ensure taxpayer information is protected, whistleblowers receiving information under either (1) or (2) would be subject to penalties under IRC 7213 for unauthorized disclosure of taxpayer information.

## Grassley Amendment

**Grassley Amendment #7** to the Taxpayer Protection Act of 2016

Cosponsors: Wyden

**Short Title:** To protect IRS whistleblowers from retaliation by employers.

**Description of Amendment:** This amendment would amend section 7623 of the Internal Revenue to extend anti-retaliation provisions to IRS whistleblowers that are presently afforded to whistleblowers under the False Claims Act and Sarbanes-Oxley. Specifically, it establishes a civil action against an employer that retaliates against an IRS whistleblower that makes a good faith disclosure of tax abuses to specified authorities, including Internal Revenue Service, the Secretary of Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct. A whistleblower who alleges discharge or other reprisal by an employer may seek relief by filing a complaint with the Secretary of labor, or if the Secretary does not issue a final decision within 180 days, by bringing an action in U.S. District Court. The whistleblower would have 180 days after the date on which the violation occurs to file their complaint with the Secretary of labor. Whistleblowers bringing a successful action would be eligible for the following relief: (i) reinstatement with the same seniority status that the employee would have had, but for the reprisal, (ii) twice the amount of their back pay and 100 percent of all lost benefits and (iii) compensation for any special damages sustained as a result of the reprisal.

## **Grassley Amendment**

***Grassley Amendment #8*** to the Taxpayer Protection Act of 2016

**Short Title:** To clarify that awards payable under the IRS Whistleblower Program includes proceeds from FBAR violations and similar tax enforcement penalties.

**Description of Amendment:** This amendment would clarify that all enforcement programs that Treasury has delegated to the IRS the authority to investigate, to assess, and to collect penalties related to reporting requirements (that are similar to those used for assessing and collecting taxes) will be considered collected proceeds eligible for awards under IRC section 7623, effective for claims filed for which the IRS have not made a final determination regarding an award as of date of enactment.

**Roberts Amendment #1 to the Taxpayer Protection Act of 2016**

Short Title: Protecting Charitable Contributions Act

Description of Amendment: This amendment would strike provisions of Section 170(f) relating to the substantiation requirements for Internal Revenue Service information returns for charitable contributions.

Offset: To be determined

## Cornyn Amendment #1 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Increase Civil Damages for Reckless or Intentional Disregard of Internal Revenue Laws by the IRS (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Under Section 7433(b) of the Internal Revenue Code, a taxpayer may bring a civil action for damages (up to \$1,000,000 & up to \$100,000 for negligence) for any collection action taken by the IRS that is reckless or intentional or by reason of negligence disregards the law or its regulations.

Cornyn Amendment #1 would increase the maximum amount a taxpayer may collect from \$1,000,000 to \$3,000,000, and in the case of negligence the limit is increased from \$100,000 to \$300,000. Congress last increased the amount in 1996 (Taxpayer Bill of Rights 2-- P.L. 104-168) and added the negligence provision in the IRS Restructuring and Reform Act of 1998 (RRA-- P.L. 105-206).

Furthermore, Cornyn Amendment #1 increases the time that a taxpayer may bring action against the IRS under Section 7433(d) (civil action for certain IRS actions) from 2 years to 5 years.

Offset: TBD

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### SEC. \_\_. CIVIL DAMAGES ALLOWED FOR RECKLESS OR INTENTIONAL DISREGARD OF INTERNAL REVENUE LAWS.

- (a) INCREASE IN AMOUNT OF DAMAGES.—Section 7433(b) of the Internal Revenue Code of 1986 is amended by striking “\$1,000,000 (\$100,000, in the case of negligence)” and inserting “\$3,000,000 (\$300,000, in the case of negligence)”.
- (b) EXTENSION OF TIME TO BRING ACTION.—Section 7433(d)(3) of the Internal Revenue Code of 1986 is amended by striking “2 years” and inserting “5 years”.
- (c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of employees of the Internal Revenue Service after the date of the enactment of this Act.

Cornyn Amendment #2 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Increase Monetary Penalties on Outlaw IRS Employees (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Cornyn Amendment #2 increases the maximum monetary penalty imposed on IRS revenue officers and agents who violate Section 7214(a) of the Internal Revenue Code from \$10,000 to \$25,000. Section 7214(a) lists a number of unlawful acts, including extortion, certain acts of fraud, and bribery.

Cornyn Amendment #2 also increases the maximum penalty for a violation of Section 7214(b) from \$5,000 to \$10,000. Section 7214(b) imposes a penalty on any internal revenue officer or employee who is involved in the manufacturing or production of tobacco or cigarettes, or the redistillation or production of liquor.

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SEC. \_\_. MODIFICATIONS RELATING TO CERTAIN OFFENSES BY OFFICERS AND EMPLOYEES IN CONNECTION WITH REVENUE LAWS.

(a) INCREASE IN PENALTY.—Section 7214 of the Internal Revenue Code of 1986 is amended—

(1) by striking “\$10,000” in subsection (a) and inserting “\$25,000”, and (2) by striking “\$5,000” in subsection (b) and inserting “\$10,000”.

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

## Cornyn Amendment #3 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Increase Civil Damages for the Unauthorized Inspection or Disclosure of Taxpayer Return and Return Information by the IRS (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Taxpayers may be awarded damages for any unauthorized inspection or disclosure of their tax return and tax information by a government employee or officer that violates Section 6103 of the Internal Revenue Code (Section 7431 of the Internal Revenue Code).

A taxpayer may generally receive \$1,000 for each act of unauthorized inspection or disclosure of a return or return information, or the sum of the actual damage sustained by the taxpayer, any applicable punitive damages, and the cost of the action and reasonable attorneys' fees, whichever is greater (The Taxpayer Browsing Protection Act (P.L. 105-35) added 'unauthorized inspection' to Section 7431).

The current penalty of \$1,000, which was established by the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248), would be increased to \$10,000.

Offset: TBD

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### SEC. \_\_. MODIFICATIONS RELATING TO CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) INCREASE IN AMOUNT OF DAMAGES.—Subparagraph (A) of section 7431(c)(1) of the Internal Revenue Code of 1986 is amended by striking “\$1,000” and inserting “\$10,000”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to inspections and disclosure occurring on and after the date of the enactment of this Act.

Cornyn Amendment #4 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Increase Monetary Penalties on Rogue IRS Employees Who Unlawfully Disclose Taxpayers Return or Return Information (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Under Section 7213 of the Internal Revenue Code, the unauthorized disclosure of a taxpayer's return or return information by an IRS employee is a felony. A fine of up to \$5,000 or a jail term of up to five years, or both, is imposed. It is also a felony, subject to the same penalties, for other persons who obtain return information under Section 6103 (e.g., state employees to disclose that information to unauthorized parties. The \$5,000 penalty was established by the Tax Reform Act of 1976 (P.L. 94-455).

Cornyn Amendment #4 increases the maximum fine from \$5,000 to \$10,000.

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SEC. \_\_. INCREASE IN MONETARY PENALTIES FOR CERTAIN UNAUTHORIZED DISCLOSURES OF INFORMATION.

(a) IN GENERAL.—Paragraphs (1), (2), (3), and (4) of section 7213(a) of the Internal Revenue Code of 1986 are each amended by striking “\$5,000” and inserting “\$10,000”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

Cornyn Amendment #5 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Allowing More Small Businesses to Recoup Attorneys' Fees for Unjustified IRS Positions (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Certain taxpayers may be able to have the IRS pay their attorneys' fees and other costs in most administrative proceedings before the IRS and court proceedings before most U.S. federal courts, provided a series of requirements are met (e.g., IRS was not substantially justified in the position it took in court). Cornyn Amendment #5 would increase the universe of small businesses that may be eligible for this relief. Small businesses (i.e., sole proprietorships, partnerships, and non-publicly traded corporations) with \$50 million or less in average annual gross receipts for the prior three taxable years would be able to recoup attorney's fees from the IRS.

Offset: TBD.

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SEC. \_\_. MODIFICATION OF STANDARDS FOR AWARDING OF COSTS AND CERTAIN FEES.

(a) SMALL BUSINESSES ELIGIBLE WITHOUT REGARD TO NET WORTH.—Subparagraph (D) of section 7430(c)(4) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (i)(II), by striking the period at the end of clause (ii) and inserting “, and”, and by adding at the end the following new clause:

“(iii) in the case of an eligible small business, the net worth limitation in clause (ii) of such section shall not apply.”.

(b) ELIGIBLE SMALL BUSINESS.— Paragraph (4) of section 7430(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(F) ELIGIBLE SMALL BUSINESS.— For purposes of subparagraph (D)(iii), the term ‘eligible small business’ means, with respect to any proceeding commenced in a taxable year—

“(i) a corporation the stock of which is not publicly traded,

“(ii) a partnership, or

“(iii) a sole proprietorship, if the average annual gross receipts of such corporation, partnership, or sole proprietorship for the 3-taxable-year period preceding such taxable year does not exceed \$50,000,000. For purposes of applying the test under the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

## Cornyn Amendment #6 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Waiver of Installment Agreement Fees for Taxpayers (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: An installment agreement with the IRS allows taxpayers who cannot afford to fully pay their back tax liability the option to pay through monthly payments. A taxpayer is usually eligible for an installment plan if they owe \$10,000 or less and meet other criteria.

The current fee for new direct debit installment agreements, where payments are deducted directly from a taxpayer's bank account, is \$52 and may be reduced to \$43 for individuals whose income falls below 250% of the poverty guidelines updated annually.

Cornyn Amendment #6 requires the Treasury Secretary to waive the fees imposed on installment agreements for taxpayers whose adjusted gross income does not exceed 250% of the federal poverty level and has agreed to make the payments by electronic means through a debit account.

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### SEC. \_\_. WAIVER OF INSTALLMENT AGREEMENT FEE.

(a) IN GENERAL.—Section 6159 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) WAIVER OF INSTALLMENT AGREEMENT FEE.— The Secretary shall waive the fees imposed on installment agreements under this section for any taxpayer with an adjusted gross income that 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, and who has agreed to make payments under the installment agreement by electronic payment through a debit instrument.”.

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

## Cornyn Amendment #7 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Improving the Independence of the IRS Office of Appeals by Disallowing Ex Parte Discussions (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Cornyn Amendment #7 increases transparency and strengthens the independent nature of the IRS Office of Appeals by:

- prohibiting *ex parte* communications between the IRS Office of Appeals and other IRS employees with respect to any matter before them;
- adding the new prohibition on *ex parte* communications to the so-called “Ten Deadly Sins” created by Section 1203 (“Ten Deadly Sins”) of the 1998 IRS Restructuring and Reform Act (RRA); and
- requiring the Treasury Inspector General on Tax Administration (TIGTA) to report on the number of terminations or mitigations under the new offense (Section 7803 (d)(1)(A) of the Internal Revenue Code requires TIGTA to annually report to the Congress any terminations or mitigations under Section 1203 of RRA).

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### SEC. \_\_. BAN ON EX PARTE DISCUSSIONS.

(a) IN GENERAL.—Notwithstanding section 1001(a)(4) of the Internal Revenue Service Restructuring and Reform Act of 1998, the Internal Revenue Service shall prohibit any *ex parte* communications between officers in the Internal Revenue Service Office of Appeals and other Internal Revenue Service employees with respect to any matter pending before such officers.

(b) TERMINATION OF EMPLOYMENT FOR MISCONDUCT.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission prohibited under subsection (a) in the performance of the employee’s official duties. Such termination shall be a removal for cause on charges of misconduct.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act prohibited under subsection (a).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. At the sole discretion of the Commissioner of Internal Revenue, such Commissioner may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) TIGTA REPORTING OF TERMINATION OR MITIGATION.—Section 7803(d)(1)(E) of the Internal Revenue Code of 1986 is amended by inserting “or the Taxpayer Protection Act of 2016” after “1998”.

Cornyn Amendment #8 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Establishment of an Alternative Dispute Resolution Program (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment:

Cornyn Amendment #8 creates a new alternative dispute resolution procedure program. Under the program, small business taxpayers (employs an average of 500 or less in the preceding two calendar years) may request mediation or arbitration in any case unless the Treasury Secretary has specifically excluded the type of issue involved in the case or the class of cases deemed as not appropriate for mediation. The Treasury Secretary's determination must be made public within five working days and must provide an explanation.

The mediation, made available at the time when the taxpayer's case is first filed with the IRS Office of Appeals and at any time before deliberations in the appeal process begins, will be conducted by an independent, neutral individual not employed by the Office of Appeals. The cost of the mediation will be divided equally between the taxpayer and the IRS; the cost is waived for taxpayers whose adjusted gross income does not exceed 250 percent of the federal poverty level.

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SEC. \_\_. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—Section 7123 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(c) AVAILABILITY OF DISPUTE RESOLUTIONS.—

“(1) IN GENERAL.—The procedures prescribed under subsection (b)(1) and the pilot program established under subsection (b)(2) shall provide that a taxpayer may request mediation or arbitration in any case unless the Secretary has specifically excluded the type of issue involved in such case or the class of cases

to which such case belongs as not appropriate for resolution under such subsection. The Secretary shall make any determination that excludes a type of issue or a class of cases public within 5 working days and provide an explanation for each determination.

“(2) INDEPENDENT MEDIATORS.—

“(A) IN GENERAL.—The procedures prescribed under subsection (b)(1) shall provide the taxpayer an opportunity to elect to have the mediation conducted by an independent, neutral individual not employed by the Internal Revenue Service Office of Appeals.

“(B) COST AND SELECTION.—

“(i) IN GENERAL.—Any taxpayer making an election under subparagraph (A) shall be required—

“(I) to share the costs of such independent mediator equally with the Internal Revenue Service Office of Appeals, and

“(II) to limit the selection of the mediator to a roster of recognized national or local neutral mediators.

“(ii) EXCEPTION.—Clause (i)(I) shall not apply to any taxpayer who is an individual or who was a small business in the preceding calendar year if such taxpayer had an adjusted gross income that did 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, in the taxable year preceding the request.

“(iii) SMALL BUSINESS.—For purposes of clause (ii), the term ‘small business’ has the meaning given such term under section 41(b)(3)(D)(iii).

“(3) AVAILABILITY OF PROCESS.—The procedures prescribed under subsection (b)(1) and the pilot program established under subsection (b)(2) shall provide the opportunity to elect mediation or arbitration at the time when the case is first filed with the Office of Appeals and at any time before deliberations in the appeal commence.”.

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

Cornyn Amendment #9 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Strengthening the Independent Nature of the Appeals Divisions by Disallowing New Issues to be Raised.

Description of Amendment: Cornyn Amendment #9 would disallow IRS Office of Appeals from raising new issues during a conference with taxpayers and the IRS. A new issue is defined as an issue that was not first raised in the statutory notice of deficiency or in the examiner's report. A new issue also includes a new tax liability and a new theory or justification for a claimed tax liability.

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SEC. \_\_. BAN ON RAISING NEW ISSUES ON APPEAL.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 7529. PROHIBITION ON INTERNAL REVENUE SERVICE RAISING NEW ISSUES IN AN INTERNAL APPEAL.

“(a) IN GENERAL.—In reviewing an appeal of any determination initially made by the Internal Revenue Service, the Internal Revenue Service Office of Appeals may not consider or decide any issue that is not within the scope of the initial determination.

“(b) CERTAIN ISSUES DEEMED OUTSIDE OF SCOPE OF DETERMINATION.—For purposes of subsection (a), the following matters shall be considered to be not within the scope of a determination:

“(1) Any issue that was not raised in a notice of deficiency or an examiner's report which is the subject of the appeal.

“(2) Any deficiency in tax which was not included in the initial determination.

“(3) Any theory or justification for a tax deficiency which was not considered in the initial determination.

“(c) NO INFERENCE WITH RESPECT TO ISSUES RAISED BY TAXPAYERS.—Nothing in this section shall be construed to provide any limitation in addition to any limitations in effect on the date of the enactment of this section on the right of a taxpayer to raise an issue, theory, or justification on an appeal from a determination initially made by the Internal Revenue Service that was not within the scope of the initial determination.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

‘Sec. 7529. Prohibition on Internal Revenue Service raising new issues in an internal appeal.’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to matters filed or pending with the Internal Revenue Service Office of Appeals on or after the date of the enactment of this Act.

Cornyn Amendment #10 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Protecting Taxpayers' Homes from Unnecessary Lien Foreclosures (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Cornyn Amendment #10 would require an IRS employee to receive written approval from either an IRS District Director or Assistant District Director before requesting that the U.S. Attorney General direct the filing of a suit to foreclose a federal tax lien and sell the taxpayer's principal residence. In addition, prior to giving their written approval the District Director/Assistant District Director must find that the taxpayer's other property are insufficient to satisfy the federal tax debt and the foreclosure does not create an economic hardship for the taxpayer.

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SEC. \_\_. LIMITATION ON ENFORCEMENT OF LIENS AGAINST PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Section 7403(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking “In any case” and inserting the following:

“(1) IN GENERAL.—In any case”, and (2) by adding at the end the following new paragraph:

“(2) LIMITATION WITH RESPECT TO PRINCIPAL RESIDENCE.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to any property used as the principal residence of the taxpayer (within the meaning of section 121) unless the Secretary of the Treasury makes a written determination that—

“(i) all other property of the taxpayer, if sold, is insufficient to pay the tax or discharge the liability, and

“(ii) such action will not create an economic hardship for the taxpayer.

“(B) DELEGATION.—For purposes of this paragraph, the Secretary of the Treasury may not delegate any responsibilities under subparagraph (A) to any person other than—

“(i) the Commissioner of Internal Revenue, or

“(ii) a district director or assistant district director of the Internal Revenue Service.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions filed after the date of the enactment of this Act.

## Cornyn Amendment #11 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: Improving & Increasing Accountability for IRS Misconduct (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: Cornyn Amendment #11 requires that if the IRS Commissioner takes a personnel action other than termination under Section 1203 of the 1998 IRS Restructuring and Reform Act, the employee is placed on unpaid administrative leave for a period of not less than 30 days.

Cornyn Amendment #11 also requires the IRS Commissioner to fire any IRS employee who violates the Constitutional rights of a taxpayer, their representative, or another IRS employee as described by Section 1203(b)(3)(A) of the RRA; and adds to the list of fireable offenses under Section 1203 of the RRA any development or use by an IRS employee of any methodology that applies disproportionate scrutiny to any applicant who is applying for tax-exempt status (501(c)) based on the ideology expressed in the name or purpose of the organization.

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### SEC. \_\_. ADDITIONAL PROVISIONS RELATING TO MANDATORY TERMINATION FOR MISCONDUCT.

(a) TERMINATION OF UNEMPLOYMENT FOR INAPPROPRIATE REVIEW OF TAX-EXEMPT STATUS.—Section 1203(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting “; and”, and by adding at the end the following new paragraph:

“(11) in the case of any review of an application for tax-exempt status by an organization described in section 501(c) of the Internal Revenue Code of 1986, developing or using any methodology that applies disproportionate scrutiny to any applicant based on the ideology expressed in the name or purpose of the organization.”.

(b) MANDATORY UNPAID ADMINISTRATIVE LEAVE FOR MISCONDUCT.—Paragraph (1) of Section 1203(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by adding at the end the following new sentence:

“Notwithstanding the preceding sentence, if the Commissioner of Internal Revenue takes a personnel action other than termination for an act or omission described in subsection (b), the Commissioner shall place the employee on unpaid administrative leave for a period of not less than 30 days.”.

(c) LIMITATION ON ALTERNATIVE PUNISHMENT.— Paragraph (1) of section 1203(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 (26 U.S.C. 7804 note) is amended by striking “The Commissioner” and inserting “Except in the case of an act or omission described in subsection (b)(3)(A), the Commissioner”.

## Cornyn Amendment #12 to the Taxpayer Protection Act of 2016

Cosponsors: Roberts, Heller

Short Title: To Protect Taxpayers from Unlawful IRS Targeting by Providing Treasury Inspector General for Tax Administration (TIGTA) Review of IRS Audit Criteria (Small Business Taxpayer Bill of Rights Act (S.949)).

Description of Amendment: To ensure that taxpayers are not targeted by the IRS because of their political, race, or political ideology, Cornyn Amendment #12 would require TIGTA to consult with IRS on any criteria it uses to select tax returns for audits, assessments, criminal investigations, or any heightened scrutiny or review to ensure that the criteria does not discriminate against taxpayers on the basis of race, religion, or political ideology.

Cornyn Amendment #12 also requires TIGTA to affirm that the consultation happens and to report any instances where the IRS's criteria discriminate on the basis of race, religion, or political ideology.

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### SEC. \_\_. REVIEW BY THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) REVIEW.—Subsection (k)(1) of section 8D of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) shall—

“(i) review any criteria employed by the Internal Revenue Service to select tax returns (including applications for recognition of tax-exempt status) for examination or audit, assessment or collection of deficiencies, criminal investigation or referral, refunds for amounts paid, or any heightened scrutiny or review in order to determine whether the criteria discriminates against taxpayers on the basis of race, religion, or political ideology; and “(ii) consult with the Internal Revenue Service on recommended amendments to such criteria in order to eliminate any discrimination identified pursuant to the review described in clause (i); and”; and (4) in subparagraph (E), as so redesignated, by striking “and (C)” and inserting “(C), and (D)”.

(b) SEMIANNUAL REPORT.—Subsection (g) of such section is amended by adding at the end the following new paragraph: “(3) Any semiannual report made by the Treasury Inspector General for Tax Administration that is required pursuant to section 5(a) shall include—

“(A) a statement affirming that the Treasury Inspector General for Tax Administration has reviewed the criteria described in subsection (k)(1)(D) and consulted with the Internal Revenue Service regarding such criteria; and “(B) a description and explanation of any such criteria that was identified as discriminatory by the Treasury Inspector General for Tax Administration.”.

## **Thune Amendment #1 to the Chairman's Mark of the Taxpayer Protection Act of 2016**

**Cosponsors:** Grassley, Roberts

**Short Title:** Improve Taxpayer Access to Appeals

**Description of Amendment:** In order to ensure that all taxpayers have convenient access to Appeals, the amendment requires the Internal Revenue Service to locate at least one Appeals Officer and one Settlement Officer in each state, including the District of Columbia and Puerto Rico. The amendment follows the recommendation of the Taxpayer Advocate Service in its 2014 Annual Report to Congress and was introduced as Section 602 of S. 1578, the "Taxpayer Bill of Rights Enhancement Act of 2015."

Currently the IRS lacks a permanent Appeals presence in 12 states (Alaska, Arkansas, Delaware, Idaho, Kansas, Montana, North Dakota, New Mexico, Rhode Island, South Dakota, Vermont and Wyoming) and Puerto Rico. An additional four states (Hawaii, Iowa, Maine, and West Virginia) have a permanent Appeals Officer, but lack a permanent Settlement Officer.

The IRS uses circuit riding to service states that lack either an Appeals Officer or Settlement Officer or both. This is in conflict with the Internal Revenue Service Restructuring and Reform Act of 1998, which recognized that "all taxpayers should enjoy convenient access to Appeals, regardless of their locality." Moreover, the number of states and territories lacking both an Appeals Officer and a Settlement Officer has grown by 33 percent since 2011. The National Taxpayer Advocate has documented that circuit riding often results in poorer results for affected taxpayers, such as adding an additional 6-12 months to the time for resolving a dispute.

## **Thune Amendment #2 to the Chairman's Mark of the Taxpayer Protection Act of 2016**

**Cosponsors:** Grassley, Roberts

**Short Title:** Improve Taxpayer Access to Appeals

**Description of Amendment:** The proposal would amend Section 2 of the Chairman's Mark to require that the GAO study also includes an examination of taxpayers' access to Appeals, in particular the effect on taxpayers in those states without a permanent Appeals Officer and/or a permanent Settlement Officer. The study should include a comparison of taxpayer access to Appeals in these states compared to states with a permanent Appeals or Settlement Officer and should evaluate wait times, geographic and technological constraints, the time necessary to resolve Appeals cases, taxpayer satisfaction with the IRS, and other factors that GAO may deem relevant.

Currently the IRS lacks a permanent Appeals presence in 12 states (Alaska, Arkansas, Delaware, Idaho, Kansas, Montana, North Dakota, New Mexico, Rhode Island, South Dakota, Vermont and Wyoming) and Puerto Rico. An additional four states (Hawaii, Iowa, Maine, and West Virginia) have a permanent Appeals Officer, but lack a permanent Settlement Officer.

The IRS uses circuit riding to service states that lack either an Appeals Officer or Settlement Officer or both. This is in conflict with the Internal Revenue Service Restructuring and Reform Act of 1998, which recognized that "all taxpayers should enjoy convenient access to Appeals, regardless of their locality." Moreover, the number of states and territories lacking both an Appeals Officer and a Settlement Officer has grown by 33 percent since 2011. The National Taxpayer Advocate has documented that circuit riding often results in poorer results for affected taxpayers, such as adding an additional 6-12 months to the time for resolving a dispute.

## **Burr Amendment**

**Burr Amendment #1** to the *Taxpayer Protection Act of 2016*

**Cosponsors:** Enzi, Heller, Grassley, Isakson

**Short Title:** Ensuring Integrity in the IRS Workforce Act of 2016

**Purpose:** To protect taxpayer rights by enhancing the integrity of the IRS workforce.

**Description of Amendment:** Prohibits the Commissioner of the Internal Revenue Service from rehiring any employee of the IRS who has been involuntarily separated for misconduct or poor performance. In 2014, the Treasury Inspector General for Tax Administration (TIGTA) found that the IRS had rehired hundreds of employees who had been involuntarily separated for serious, severable offenses under Section 1203 of RRA 98, such as fraud, failure to file a return, falsification of documents and unauthorized access to taxpayer information. Ensuring employees who commit such serious offenses is necessary to ensuring the integrity of the agency and to protecting the rights of taxpayers. The amendment text is based on S. 2439, introduced January 12, 2016, and has been modified to enhance Section 11 regarding the integrity of IRS employees.

**Offset:** Not necessary

## **Burr Amendment**

**Burr Amendment #2** to the *Taxpayer Protection Act of 2016*

**Cosponsors:** Enzi, Heller, Isakson

**Short Title:** Internal Revenue Service Accountability Act

**Purpose:** To protect taxpayer rights by clarifying the IRS Commissioner has authority to fire senior executives who have failed in their performance, or committed serious misconduct.

**Description of Amendment:** Clarifies the IRS Commissioner has the power to fire senior executives who have failed in the performance or committed serious misconduct. This legislation is based on a law Congress passed in 2014 with broad bipartisan support that gave the Secretary of the VA the authority to fire senior executives for misconduct. This would apply the highest ranking IRS employees in the Senior Executive Service (SES), and allows the Commissioner to terminate employees for misconduct already deemed severable offenses under RRA 98, such as threatening to audit someone for personal gain, conducting a seizure without approval, assaulting, harassing or violating the civil rights of a taxpayer or a coworker, lying under oath, falsifying or destroying records, concealing information from Congress, underreporting income and failing to file a tax return on time. In order to ensure taxpayer rights are protected, senior level managers must be capable supervisors and be held accountable for their actions. The amendment text is based on S. 2345, introduced December 2, 2015, and has been modified to enhance Section 11 regarding the integrity of IRS employees.

**Offset:** Not necessary

## **Burr Amendment**

### **Burr Amendment #3** to the *Taxpayer Protection Act of 2016*

**Short Title:** the Biased IRS Audit Systems (BIAS) Prevention Act

**Purpose:** To protect taxpayer rights by requiring document retention, increasing oversight and ensuring fairness in tax administration.

**Description of Amendment:** Requires the IRS to document reasons for auditing taxpayers and documentation must be retained and made available to various oversight bodies. This amendment also requires that the taxpayer is provided justification for the audit. Recent GAO reports found that the IRS lacks strong internal controls and protocols in the return selection process, creating the potential for unfair and biased audits. This amendment would redirect funding from conducting “guinea pig audits” to combat identity theft and tax refund fraud. “Guinea pig audits” are multi-year, intensive research audits conducted solely for the purpose of “research,” not to catch mistakes or to check for inconsistencies in tax returns. This amendment maintains the IRS’s current ability to conduct standard audits. The amendment text is based on S. 2581, introduced February 25, 2016, and has been modified to enhance Section 6 regarding IRS record retention.

**Offset:** Not necessary

## AMENDMENT

Isakson Amendment #1 to **Taxpayer Protection Act of 2016:**

Short Title: Prohibit the use of IRS funds for Political Targeting

Description of Amendment:

Would prohibit the use of any funds by the Internal Revenue Service to target citizens of the United States for exercising any right guaranteed under the First Amendment of the Constitution of the United States.

Cost: none

## **Portman Amendment #1 to the Taxpayer Protection Act of 2016**

**Short Title:** Ensuring Taxpayer’s Right to Appeal to the IRS Office of Appeals

**Description of amendment:** This amendment would ensure that taxpayers have an opportunity to appeal to the IRS Office of Appeals, consistent with Sections 1-4 of S. 2809. The amendment prevents the IRS from denying the right to appeal in the following ways:

- Preventing the IRS from issuing a statutory notice of deficiency (90-day letter) without first issuing a 30-day letter, which provides the taxpayer with the opportunity to resolve their case with Appeals before filing a Tax Court petition.
- Ensuring that cases “designated for litigation” are truly only those that present recurring, significant legal issues that affect a large number of taxpayers by mandating that the IRS publicly identify the types of cases that will be designated.
- Ensuring that “designated summons” that extend the statute of limitations are only used in cases where taxpayers are uncooperative and withholding information by putting the onus on the IRS to prove that taxpayers are being uncooperative and requiring the Office of the Chief Counsel to approve the use of the designated summons.

**Offset:** To be provided.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **Portman Amendment #2 to the Taxpayer Protection Act of 2016**

**Short Title:** Limitation on Access of Non-IRS Employees to Returns and Return Information Acquired by Summons.

**Description of amendment:** This amendment would prevent the IRS from using external legal counsel to conduct IRS examinations consistent with Section 5 of S. 2809. Temporary regulations allow external non-IRS attorneys to receive, review, and use summoned books, papers, records, or other data of taxpayers, and to be present during taxpayer interviews. The amendment effectively rescinds these temporary regulations, helping to ensure that taxpayer information is not misused or unlawfully disclosed by outside counsel.

**Offset:** To be provided.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## Toomey Amendment

**Toomey Amendment #1** to: The Taxpayer Protection Act of 2016

**Short Title:** Preserving Access to Orphan Drugs

**Description of Amendment:** The Affordable Care Act assesses an annual fee on branded pharmaceutical sales. Most orphan drugs were excluded from this tax, but a number of medicines, which are used only to treat rare diseases, were still assessed in the fee. This tax is a disincentive for companies wishing to make medication to treat rare conditions. The Preserving Access to Orphan Drugs Act would provide for a temporary one-year exemption for all drugs used to exclusively treat rare diseases. Under the bill, the tax would not shift to other payers, holding them harmless.

## Toomey Amendment

**Toomey Amendment #2** to: The Taxpayer Protection Act of 2016

**Short Title:** to be provided

**Description of Amendment:** to be provided

## **Coats/Cardin Amendment #1** to the Taxpayer Protection Act of 2016

**Short Title:** Requiring the IRS to provide timely notice before tax-exempt status is automatically revoked.

### **Description of Amendment:**

**Background.** Under current law, charities and other nonprofits automatically lose their tax-exempt status if they do not file annual information returns for three consecutive years. Once revoked, they must file for exempt status again and wait for a response. The IRS is not currently notifying nonprofits of the impending revocation in a timely way, which has caused severe hardship for the nonprofits—particularly small charities staffed by volunteers—and the new applications for exempt status have dramatically increased the caseload of the IRS.

**Amendment.** The amendment is identical to legislation the Finance Committee passed last year, the Notice for Organizations That Include Charities is Essential (NOTICE) Act, with one small adjustment outlined below that was requested by the Ways and Means Committee.

The amendment requires the IRS to notify charities 270 days (rather than the 300 days specified in the original bill) in order to give organizations roughly 90 days (rather than the original 60) to file an information return and prevent their status from being revoked. If nonprofits demonstrate to the IRS that they did not receive this notice before the revocation, then the IRS is permitted (but not required) to reinstate exempt status when the organization submits the proper information return.

No offset is required.

## **Coats Amendment #2 to the Taxpayer Protection Act of 2016**

**Short Title:** Protection of victims of employment-related identity theft.

### **Description of Amendment:**

Background: Employment-related identity theft occurs when a worker submits a false Social Security number (SSN) or false name and SSN to an employer, which results in the Internal Revenue Service receiving a W-2 form or another information return with this false information. These cases can cause severe hardship for the victims of this theft, including accusations of underreporting income and the loss of income-related benefits.

### Proposal:

**Victim Protection.** The amendment repeats language contained in the Chairman’s Modified Mark of “an Original Bill to Prevent Identity Theft and Tax Refund Fraud” that provides for IRS notification of individuals when the IRS determines there has been an unauthorized use of their identity. The amendment also provides that the notification shall include, among other information, (1) steps that victims can take to protect themselves from harm caused by the unauthorized use and (2) an offer of IRS victim protection measures such as an IP PIN that allows returns to be filed securely.

In addition, the amendment clarifies that the class of victims notified includes (but is not limited to) victims of employment-related identity theft. In order to ensure the IRS uses both its own internal determinations as well as the information provided to the IRS by the Social Security Administration (SSA), the amendment clarifies that determinations of employment-related ID theft include:

- (1) determinations through internal IRS processes that an SSN on a Form W-2 or other work-related information return does not match either the name

on the information return or the name of the tax return filer; and  
(2) information on W-2 name and SSN mismatches that is provided to the IRS by SSA.

**Additional employment-related ID theft victim protections:**

- To address the current failure of the IRS to examine returns filed on paper, the amendment requires the IRS to examine tax returns and information returns related to employment (whether submitted electronically or on paper) for evidence of employment-related ID theft.
- To ensure that both SSA and IRS records correctly reflect the earnings of victims, the amendment requires—consistent with an effective return processing program with SSA—that the Commissioner of SSA shall request (at least annually) and IRS provide to SSA information returns that contain evidence of employment-related ID theft.
- The amendment requires the IRS to continue to take steps to ensure that identity theft victims are not penalized for underreporting of income as a result of the unauthorized use.

No offset is required.

## HELLER AMENDMENT #1

**Heller Amendment #1** to the Chairman's Mark

**Cosponsors:**

**Short Title:** IRS Future State Accountability and Transparency Act

**Description of Amendment:** The Internal Revenue Service (IRS) has a critical role in protecting all taxpayers. Given the recent challenges related to security breaches and the violations of certain taxpayers' rights around tax exempt status, transparency and accountability in the IRS is more important than ever. During the past two years, the IRS has developed a "Future State" plan that details how the agency will operate in five years and beyond. Nina Olson of the National Taxpayer Advocate has recently stated that it's "nearly impossible to evaluate the full extent of the impact of contemplated service reductions and changes on taxpayers and voluntary compliance" without the IRS's willingness to work with lawmakers and stakeholders. Because of this Ms. Olson "identified the IRS Future State plans as the number one most serious problem for taxpayers."

This provision would hold the IRS accountable by requiring the agency to annually submit progress reports on the status of the IRS transitioning to a "Future State." In particular, the report would provide a thorough assessment of which services the IRS can shift to self-service options.

This proposal would also require the GAO to identify and report on the extent of phone and in-person service currently provided to rural taxpayers. There is no definition of rural in the tax code. However, the definition of rural taxpayer, for purposes of this provision, is a taxpayer that resides in a city, town, or unincorporated area that has a population of 50,000 inhabitants or less. In addition, the GAO would provide recommendations on steps the IRS could take to protect rural taxpayers as the agency transitions to a "Future State."

An up or down vote would be required in order for the IRS to fully implement the "Future State."

The provision is effective on the date of enactment. The GAO is required to submit their report to the Senate Finance Committee and House Ways and Means Committee within one year of the date of enactment. The IRS is also required to submit their report to the Senate Finance Committee and House Ways and Means Committee within one year of the date of enactment.

**Offset:** To be provided.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.

## HELLER AMENDMENT #2

**Heller Amendment #2** to the Chairman's Mark

**Cosponsors:**

**Short Title:** To deny paying bonuses to IRS employees until a comprehensive customer service strategy is put into place.

**Description of Amendment:** According to a GAO report, the IRS provided "**the lowest level of telephone service during fiscal year 2015,**" with only 38 percent of callers able to reach an IRS representative. Additionally, the IRS has not developed any plans for a comprehensive customer service strategy to address these problems.

Despite the lack of "top quality" service to hardworking taxpayers and limited resources, IRS employees continue to receive bonuses. This proposal prohibits the IRS from paying bonuses to employees until the Secretary of the Treasury develops and submits a comprehensive customer service strategy that has been reviewed and approved by the Treasury Inspector General for Tax Administration.

Further, the Secretary of the Treasury shall submit progress reports to Congress on the status of its customer service strategy and actions taken to improve customer service biannually until a comprehensive customer service strategy is fully implemented.

**Offset:** To be provided.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **HELLER AMENDMENT #3**

**Heller Amendment #3** to the Chairman's Mark

**Cosponsors:**

**Short Title:** To require the IRS to give sufficient notice to Congress before closing a walk-in center or Taxpayer Assistance **Centers** (TACs).

**Description of Amendment:** In states, such as Nevada, many taxpayers do not have access to the internet, much less trust federal agencies, such as the IRS. These taxpayers require and want in person access to IRS facilities.

This amendment would disallow the IRS from closing a walk-in facility without first reporting to Congress 90 days in advance the reasons for the proposed closure and how taxpayers located in rural areas will be served in the event of the closing. Congressional lawmakers would be authorized to deny a closure, depending on facts and circumstances.

**Offset:** To be provided.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **HELLER AMENDMENT #4**

**Heller Amendment #4** to the Chairman's Mark

**Cosponsors:**

**Short Title:** Amendment of a perfecting nature

**Description of Amendment:** TBD

**Offset:** To be provided.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **Scott Amendment #1 to the Taxpayer Protection Act of 2016**

**Short Title:** End the Partisan IRS Culture Act or the EPIC Act

**Description of Amendment:** This amendment amends the Federal Service Labor-Management Relations Statute to designate the IRS as an agency that is exempt from labor organization and collective bargaining requirements in an effort to decrease political decision making at the IRS.

**Offset:** No revenue effect

## **Schumer Amendment #1 to the Taxpayer Protection Act of 2016**

**Short Title:** Single Point of Contact for Tax Fraud Victims at the IRS

**Description of Amendment:** This amendment would direct the IRS to create a process whereby a sole point of contact at the IRS would help victims of tax-related identity theft recover their stolen or unfairly suspended tax refund, coordinating with various IRS functions on their case.

## **Schumer Amendment #2 to the Taxpayer Protection Act of 2016**

**Short Title:** Public Release of IRS Service Delivery Plan

**Description of Amendment:** The amendment would direct the IRS to make public and solicit comments on its “future state” plan.

## **Schumer Amendment #3 to the Taxpayer Protection Act of 2016**

**Short Title:** Cap IRS User Fees on Installment Agreements (IA)

**Description of Amendment:** The amendment would cap IRS fees for Installment Agreements at their current rate.

## **Schumer Amendment #4 to the Taxpayer Protection Act of 2016**

**Short Title:** EITC/CTC IRS Hotline

**Description of Amendment:** This would direct the IRS to create a hotline dedicated to answering taxpayers' questions about claiming the EITC and the CTC.

## **Schumer Amendment #5 to the Taxpayer Protection Act of 2016**

**Short Title:** Creating Transparency in the Tax System

**Description of Amendment:** Requires the IRS to disclose, upon public request, all private letter rulings and tax-exempt determinations.

## **Schumer Amendment #6 to the Taxpayer Protection Act of 2016**

**Short Title: Department of the Treasury Revenue Collection Clarification**

**Description of Amendment:** Sense of the Senate that the IRS is an agency within the Department of the Treasury, and functions to execute the Treasury Department's responsibilities in revenue collection and the administration of U.S. tax law, as created by the Congress.

## **Nelson Amendment #1 to the TAXPAYER PROTECTION ACT OF 2016**

**Short Title:** Taxpayer Receipt Act

**Description of Amendment:** Direct the IRS to send either a paper copy or an electronic copy of an itemized tax receipt to taxpayers when they file their tax returns. The receipt would show how each taxpayer's contribution to the Federal government is allocated proportionately among major categories of the federal budget—such as Social Security, national defense, Medicare, other federal health programs, low-income assistance programs, foreign aid, veteran benefits, education, Congress, Executive Office of the President, U.S. Postal Service, farm subsidies, scientific research, NASA, disaster relief, IRS operations, natural resource management, and transportation funding, among other categories. The amendment is modeled after S.437 from the 112<sup>th</sup> Congress.

**Offset:** None Required

## **Nelson Amendment #2 to the TAXPAYER PROTECTION ACT OF 2016**

**Short Title:** Amendment to help taxpayers guard against the IRS phone scam

**Description of Amendment:** Require the Treasury Inspector General for Tax Administration (TIGTA) to issue a report, in consultation with the Federal Communications Commission and the Federal Trade Commission, identifying potential technological solutions to help protect consumers from the so-called IRS phone scam. The report would also identify phone companies that offer services designed to help taxpayers protect themselves from such scams.

**Offset:** None Required

**Menendez Second-Degree Amendment #1 Coats Amendment #? to the Chairman's Mark of the Taxpayer Protection Act of 2016**

**Short Title:** Preventing False Positives that Burden Taxpayers

**Description of Amendment:**

The notification exchange between the IRS and the Social Security Administration can only happen if proper safeguards are in place to reduce the likelihood of false positives, subject to full funding of a newly created information exchange account.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Menendez Amendment #2 to the Chairman's Mark of the Taxpayer Protection Act of 2016**

**Short Title: Promote Tax Compliance**

### **Description of Amendment:**

The notification exchange between the IRS and the Social Security Administration can only happen after a study is conducted by TIGTA and GAO which determines such information sharing will not negatively affect tax compliance.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Menendez Amendment #3 to the Chairman's Mark of the Taxpayer Protection Act of 2016**

**Short Title: Information Sharing to Prevent Tax Evasion**

### **Description of Amendment:**

Require information sharing between the IRS and FEC to prevent the misapplication of tax-exempt status for organizations that are primarily involved in political activity.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Carper Amendment #1 to the Taxpayer Protection Act of 2016**

**Short Title:** Sense of the Senate to improve customer service and protections for taxpayers by reinstating appropriate IRS funding levels.

**Description of Amendment:** This amendment expresses the Sense of the Senate that politically-motivated budget cuts are counterproductive to deficit reduction, diminish the IRS's ability to adequately serve taxpayers and protect taxpayer information, and reduce the IRS's ability to enforce the law. This amendment calls on the Senate to support funding the IRS at the President's budget request.

**Revenue Impact:** No revenue impact.

## **Cardin Amendment #1 to the Taxpayer Protection Act of 2016**

**Short Title:** Consistent standard for levies on retirement assets and retirement income

### **Description of Amendment:**

This amendment would allow the IRS to levy on taxpayers' fixed and determinable rights to retirement and disability benefits only in cases where taxpayers have exhibited flagrant conduct, the same standard the IRS uses when it contemplates levy action on retirement assets.

Currently, the IRS will not levy under section 6331(a) on accumulated funds in retirement accounts unless the taxpayer has engaged in "flagrant" conduct. "Flagrant" conduct is defined by example under Internal Revenue Manual (IRM) 5.11.6.2. The IRS uses the "flagrant" standard in serving levies on accumulated funds in retirement accounts "[b]ecause these retirement vehicles provide for the taxpayer's future welfare."

However, the IRS does not apply the "flagrant" conduct standard to the stream of payments from retirement assets, which are also important to the retirement security of taxpayers, especially elderly and disabled taxpayers. Instead, IRM 5.11.6.1(1) provides that "discretion" should be used before levying retirement income. When the IRS levies on Social Security income payments, it uses the standard of "discretion," pursuant to IRM 5.11.6.1.1(3).

The amendment requires the IRS to be consistent in its approach to levying on retirement assets and retirement benefits, while still permitting these levies in certain cases. It is based on a provision in section 306 of S. 2333, the *Taxpayer Rights Act*, and a recommendation by the National Taxpayer Advocate.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Cardin Amendment #2 to the Taxpayer Protection Act of 2016**

**Short Title:** Clear guidance on standards that must be met before IRS levies on retirement accounts

**Description of amendment:**

Currently, the IRS's power to levy extends to assets in retirement accounts, including TSP accounts. Given the long-term importance of retirement assets to individuals' future welfare, the

IRS already regards retirement levies as "special cases" that require additional scrutiny and managerial approval.

In particular, the IRS has established three required steps in the Internal Revenue Manual (IRM) before a Revenue Officer can issue a notice of levy on a taxpayer's retirement account: (1) determine what property (both retirement and nonretirement) is available to collect on the liability; (2) determine whether the taxpayer's conduct has been "flagrant"; and (3) determine whether the taxpayer depends on money in the retirement account (or will in the future) for necessary living expenses.

However, the IRM does not define what constitutes "flagrant" conduct. Rather, the IRS must make this determination based on examples in the IRM guidance.

IRS employees are instructed to consider extenuating circumstances that mitigate otherwise flagrant behavior and to review each situation on a case-by-case basis, but examples of extenuating circumstances are not included in the IRM. The absence of clear guidance could lead to inconsistent treatment of similarly situated taxpayers.

The amendment addresses this problem by providing requirements the IRS must meet before levying on a retirement account, while still permitting these levies in certain cases. The amendment sets forth three requirements to levy: (1) the amount of tax owed by the taxpayer exceeds \$10,000; (2) the Secretary has determined the taxpayer has committed a "flagrant act"; and (3) the levy will not create an economic hardship due to the financial condition of the taxpayer. "Flagrant act" means the filing of a fraudulent return by the taxpayer, or that the taxpayer acted with the intent to evade or defeat tax collection or payment. It is based on a provision in section 307 of S. 2333, the *Taxpayer Rights Act* and a recommendation by the National Taxpayer Advocate.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Cardin Amendment #3 to the Taxpayer Protection Act of 2016**

**Short Title:** Statutory right to a hearing at the Office of Appeals

### **Description of amendment:**

The IRS Office of Appeals serves as the tribunal of last resort within the IRS. The Office of Appeals is generally instructed to consider hazards of litigation in determining a settlement that is fair to both taxpayers and the IRS. The IRS Restructuring and Reform Act of 1998 specifically directed the Commissioner to “ensure an independent appeals function within the Internal Revenue Service.”

Although detailed procedures governing the referral of cases to Appeals are provided by regulation, most courts consider such procedural regulations to be directory, rather than mandatory, and thus have concluded that a taxpayer generally does not have a legal right to insist upon an Appeals conference.

This amendment provides a statutory right to a hearing held by the Office of Appeals. The Secretary is authorized to prescribe regulations relating to procedures and exceptions.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Brown-Cardin Amendment #1 to the Taxpayer Protection Act of 2016**

**Short Title:** Raising the cap for IRS VITA matching grant program allocation to \$30 million, subject to appropriation override

### **Description of Amendment:**

The Chairman's Mark of the Taxpayer Protection Act of 2016 codifies the VITA program and provides that the IRS may allocate up to \$15 million per year in matching grants. This amendment increases the allocation cap from \$15 million per year to \$30 million per year.

Like the low-income taxpayer clinic allocation language under section 7526, this figure can be changed via specific appropriation. In other words, the amendment does not require the program to be funded at \$30 million. Rather, it indicates to the IRS that the program may be funded up to that level if Congress does not otherwise speak to the issue.

Recent estimates by stakeholder groups indicate that the matching grant program would need to be funded at this level in order to operate at capacity and fully serve the low-income, elderly, rural, and other vulnerable populations that the VITA program reaches every tax-filing season. This amendment would give the IRS the option to do so, subject to other resource-related considerations and absent specific Congressional instructions.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Brown-Cardin Amendment #2 to the Taxpayer Protection Act of 2016**

**Short Title:** National Center to Promote Quality, Excellence, and Evaluation in Volunteer Income Tax Assistance

### **Description of Amendment:**

This amendment, based on section 201(b) of S. 2333, the *Taxpayer Rights Act*, and Section 5 of S. 996, the *Volunteer Income Tax Assistance Act*, would create a National Center to Promote Quality, Excellence, and Evaluation in Volunteer Income Tax Assistance and authorize (but not appropriate) \$5 million in funding for the Center. The Center is required to promote the adoption of a universally accessible volunteer training platform for the preparation of federal income tax returns, provide technical assistance to VITA programs, develop best practices, and provide evaluations of the activities funded under the VITA grant program, including by identifying gaps in services for targeted populations.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Casey Amendment #1 to the Taxpayer Protection Act of 2016**

**Short Title:** Providing Taxpayers ID Theft and Tax Scam Information

### **Description of Amendment:**

This amendment would direct the IRS to provide basic information about common tax scams, including a list of activities the IRS will never do (such as call and demand immediate payment, or call about taxes owed without first having mailed you a bill), direction to the taxpayer on where to report such activity, and tips about how taxpayers can protect themselves from ID theft and tax scams, while taxpayers are on hold with the Agency's call center.

**Offset:** No offset is expected to be required.

## **Warner Amendment #1 to the Taxpayer Protection Act of 2016**

**Cosponsors:** Bennet, Burr

**Short Title:** Combat-Injured Veterans Tax Fairness Act

### **Description of Amendment:**

Since the early 1990s, the Department of Defense (DOD) has improperly withheld taxes from disability severance payments to combat-wounded veterans despite the intent of Congress, federal law, and DOD policy, which all clearly state that service members separated as a result of combat-related injuries are not to have their severance pay taxed.

According to some estimates, this improper withholding of taxes could affect as many as 14,000 veterans from all 50 states. In many cases, impacted veterans are unaware that their benefits were improperly reduced and in other instances, veterans who become aware of the improper withholding are unable to recoup their losses because of the three-year statute of limitation for amending a tax return.

This amendment directs the DOD to identify veterans who have been separated from service for combat-related injuries and had taxes withheld from their severance payments. It also instructs DOD, in consultation with Treasury, to provide each identified veteran with a notice of the amount of improperly withheld severance payments and instructions for filing amended tax returns to recover such amount. The amendment extends the statute of limitations for filing a related claim with the Internal Revenue Service for a credit or refund beyond the three-year limitation to one year after DOD provides the veteran with the information required by this amendment, and instructs DOD to ensure that taxes are not erroneously withheld from severance pay going forward.

The amendment text is the same as S.2712, the Combat-Injured Veterans Tax Fairness Act of 2016, introduced March 17, 2016 by Senators Boozman and Warner.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

## **Warner Amendment #2 to the Taxpayer Protection Act of 2016**

**Short Title:** Government Accountability Office (GAO) Study of Federal Employee Wage and Tax Withholding Reporting to State Tax Agencies

### **Description of Amendment:**

To prevent identity-theft related tax refund fraud, state tax administrators increasingly use the taxpayer's actual wage and tax withholding information to ensure accurate filing of a state individual income tax return. Currently, the timing difference between when state tax agencies receive individual income tax returns (and as a result, claims for tax refunds) and when they receive income and withholding information produced by federal agencies may result in state tax agencies issuing invalid refunds to fraudsters or delaying refunds while requiring taxpayers to produce additional documentation to support the information claimed on their returns.

The federal government has designated Human Resources Federal Shared Services Centers (Shared Services Centers) as responsible for producing wage and tax withholding information for the majority of Federal employees.

This amendment requires the GAO to evaluate the process and timeline by which the Shared Services Centers provide state tax agencies with Federal employee wage and tax withholding information, and offer recommendations for improvements where appropriate.

**Offset:** To be provided if needed.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]