

118TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide for examination and disclosure with respect to Presidential income tax returns, to amend the Ethics in Government Act of 1978 to require the disclosure of certain tax returns by Presidents and certain candidates for the office of the President, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for examination and disclosure with respect to Presidential income tax returns, to amend the Ethics in Government Act of 1978 to require the disclosure of certain tax returns by Presidents and certain candidates for the office of the President, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Presidential Audit and
5 Tax Transparency Act”.

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

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

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

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

15 “(b) REPORTS.—

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

21 “(A) the name of the taxpayer,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(A) a President,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(II) section 267(c) shall be ap-
15 plied by treating the family of an indi-
16 vidual as including only such individ-
17 ual’s spouse (in lieu of the application
18 of paragraph (4) thereof).

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

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

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

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

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

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

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

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

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

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

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

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

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

1 in clause (i) or (ii) at any time during the
2 taxable year;

3 “(iv) the estate of any person de-
4 scribed in clause (i) or (ii) or any estate
5 with respect to which any person described
6 in clause (i), (ii), or (iii) is an executor or
7 beneficiary at any time during the taxable
8 year; and

9 “(v) any trust with respect to which
10 any person described in clause (i), (ii),
11 (iii), or (iv) is a grantor, fiduciary, or ben-
12 eficiary, or for which another trust de-
13 scribed in this clause is a grantor or bene-
14 ficiary, at any time during the taxable
15 year.

16 “(B) INCLUSION OF CERTAIN DOCU-
17 MENTS.—Such term shall include any schedule,
18 attachment, or other document filed with such
19 return.

20 “(2) COVERED CANDIDATE.—The term ‘covered
21 candidate’ means an individual—

22 “(A) required to file a report under section
23 101(c); and

24 “(B) who is nominated by a major party
25 as a candidate for the office of President, re-

1 regardless of whether the individual is nominated
2 after May 15 of an applicable year.

3 “(3) COVERED INDIVIDUAL.—The term ‘cov-
4 ered individual’ means—

5 “(A) a President required to file a report
6 under subsection (a) or (d) of section 101; and

7 “(B) an individual who occupies the office
8 of the President required to file a report under
9 section 101(e).

10 “(4) MAJOR PARTY.—the term ‘major party’
11 has the meaning given the term in section 9002 of
12 the Internal Revenue Code of 1986.

13 “(b) DISCLOSURE.—

14 “(1) COVERED INDIVIDUALS.—

15 “(A) IN GENERAL.—In addition to the in-
16 formation described in subsections (a) and (b)
17 of section 102, a covered individual shall in-
18 clude in each report required to be filed under
19 this title a copy of all applicable income tax re-
20 turns for the 3 most recent taxable years for
21 which a return has been filed with the Internal
22 Revenue Service as of the date on which the re-
23 port is filed.

24 “(B) FAILURE TO DISCLOSE.—If an in-
25 come tax return is not disclosed under subpara-

1 graph (A), the Director of the Office of Govern-
2 ment Ethics shall submit to the Secretary of
3 the Treasury a request that the Secretary of
4 the Treasury provide the Director of the Office
5 of Government Ethics with a copy of the in-
6 come tax return.

7 “(C) PUBLICLY AVAILABLE.—Each income
8 tax return submitted under this paragraph shall
9 be filed with the Director of the Office of Gov-
10 ernment Ethics and made publicly available in
11 the same manner as the information described
12 in subsections (a) and (b) of section 102.

13 “(D) REDACTION OF CERTAIN INFORMA-
14 TION.—Before making any income tax return
15 submitted under this paragraph available to the
16 public, the Director of the Office of Government
17 Ethics shall redact such information as the Di-
18 rector of the Office of Government Ethics, in
19 consultation with the Secretary of the Treasury
20 (or a delegate of the Secretary), determines ap-
21 propriate.

22 “(2) COVERED CANDIDATES.—

23 “(A) IN GENERAL.—Not later than 15
24 days after the date on which a covered can-
25 didate is nominated, the covered candidate shall

1 amend the report filed by the covered candidate
2 under section 101(c) with the Federal Election
3 Commission to include a copy of the applicable
4 income tax returns for the 3 most recent tax-
5 able years for which a return has been filed
6 with the Internal Revenue Service.

7 “(B) FAILURE TO DISCLOSE.—If an appli-
8 cable income tax return is not disclosed under
9 subparagraph (A), the Federal Election Com-
10 mission shall submit to the Secretary of the
11 Treasury a request that the Secretary of the
12 Treasury provide the Federal Election Commis-
13 sion with the applicable income tax return.

14 “(C) PUBLICLY AVAILABLE.—Each appli-
15 cable income tax return submitted under this
16 paragraph shall be filed with the Federal Elec-
17 tion Commission and made publicly available in
18 the same manner as the information described
19 in section 102(b).

20 “(D) REDACTION OF CERTAIN INFORMA-
21 TION.—Before making any applicable income
22 tax return submitted under this paragraph
23 available to the public, the Federal Election
24 Commission shall redact such information as
25 the Federal Election Commission, in consulta-

1 tion with the Secretary of the Treasury (or a
2 delegate of the Secretary) and the Director of
3 the Office of Government Ethics, determines
4 appropriate.

5 “(3) SPECIAL RULE WITH RESPECT TO RE-
6 TURNS DISCLOSED UNDER OTHER AUTHORITY.—For
7 purposes of this subsection, in the case of any appli-
8 cable income tax return which has been made pub-
9 licly available pursuant to section 6103(q) of the In-
10 ternal Revenue Code of 1986, the requirements of
11 paragraphs (1)(A) and (2)(A) shall be satisfied with
12 respect to such return if the covered individual or
13 covered candidate (as the case may be) provides the
14 location on the Internet where such disclosure has
15 been made publicly available.”; and

16 (B) in section 104—

17 (i) in subsection (a)—

18 (I) in paragraph (1), in the first
19 sentence, by inserting “or any indi-
20 vidual who knowingly and willfully fal-
21 sifies or who knowingly and willfully
22 fails to file an applicable income tax
23 return that such individual is required
24 to disclose pursuant to section 102A”
25 before the period; and

1 (II) in paragraph (2)(A)—

2 (aa) in clause (i), by insert-
3 ing “or falsify any applicable in-
4 come tax return that such person
5 is required to disclose under sec-
6 tion 102A” before the semicolon;
7 and

8 (bb) in clause (ii), by insert-
9 ing “or fail to file any applicable
10 income tax return that such per-
11 son is required to disclose under
12 section 102A” before the period;

13 (ii) in subsection (b), in the first sen-
14 tence by inserting “or willfully failed to file
15 or has willfully falsified an applicable in-
16 come tax return required to be disclosed
17 under section 102A” before the period;

18 (iii) in subsection (c), by inserting “or
19 failing to file or falsifying an applicable in-
20 come tax return required to be disclosed
21 under section 102A” before the period; and

22 (iv) in subsection (d)(1)—

23 (I) in the matter preceding sub-
24 paragraph (A), by inserting “or files
25 an applicable income tax return re-

1 quired to be disclosed under section
2 102A” after “title”; and

3 (II) in subparagraph (A), by in-
4 serting “or such applicable income tax
5 return, as applicable,” after “report”.

6 (2) SPECIAL RULE FOR INDIVIDUALS WHO ARE
7 COVERED CANDIDATES ON DATE OF ENACTMENT.—

8 In the case of any individual who is a covered can-
9 didate (as defined in section 102A of the Ethics in
10 Government Act of 1978, as added by paragraph
11 (1)) on the date of the enactment of this Act, section
12 102A(b)(2)(A) shall be applied by substituting “30
13 days after the date of the enactment of the Presi-
14 dential Audit and Tax Transparency Act” for “15
15 days after the date on which a covered candidate is
16 nominated”.

17 (b) AUTHORITY TO DISCLOSE INFORMATION.—

18 (1) IN GENERAL.—Section 6103(l) of the Inter-
19 nal Revenue Code of 1986 is amended by adding at
20 the end the following:

21 “(23) DISCLOSURE OF RETURN INFORMATION
22 OF PRESIDENTS AND CERTAIN PRESIDENTIAL CAN-
23 DIDATES UNDER ETHICS IN GOVERNMENT ACT OF
24 1978.—

1 Ethics in Government Act of 1978, provide
2 to officers and employees of the Federal
3 Election Commission a copy of each appli-
4 cable income tax return with respect to any
5 covered candidate who has been identified
6 in such request .

7 “(ii) DISCLOSURE TO PUBLIC.—The
8 Federal Election Commission may disclose
9 to the public any applicable income tax re-
10 turn required to be filed with the Commis-
11 sion pursuant to section 102A(b)(2) of the
12 Ethics in Government Act.

13 “(C) DEFINITIONS.—For purposes of this
14 paragraph, the terms ‘applicable income tax re-
15 turn’, ‘covered individual’, and ‘covered can-
16 didate’ have the meanings given those terms in
17 section 102A of the Ethics in government Act
18 of 1978.”.

19 (2) CONFORMING AMENDMENTS.—Section
20 6103(p)(4) of the Internal Revenue Code of 1986, in
21 the matter preceding subparagraph (A) and in sub-
22 paragraph (F)(ii), is amended by striking “or (22)”
23 and inserting “(22), or (23)” each place it appears.