Taxpayer Assistance and Service Act

Title 1: Tax Administration and Customer Service.

Sec. 101. Scanning and Digitization of Tax Returns and Correspondence. Manual data entry contributes to IRS processing backlogs. The proposal would require that returns prepared electronically, but printed and filed on paper, include a code that the IRS could digitize by scanning. It would also require the IRS to transcribe paper returns and correspondence that do not include a code using scanning technology. The requirement would not apply to the extent the Secretary determines that manual data entry or any other process the IRS would otherwise use is faster or more reliable and reports such determination to Congress. The proposal would facilitate the IRS plans and to digitize returns and correspondence and establish deadlines. The provision is effective for individual income tax returns received during (or after) the calendar year beginning 180 days or more after the date of enactment; for estate or gift tax returns received during (or after) the calendar year beginning more than 2 years after the date of enactment; and any other returns or correspondence received during (or after) the calendar year beginning more than one year after the date of enactment.

Sec. 102. Establishment of Dashboard to Inform Taxpayers of Backlogs and Wait Times. This proposal aims to reduce unnecessary calls and letters to the IRS by establishing an up-to-date dashboard on IRS.gov, which would provide taxpayers with more specific information on backlogs and phone wait times when there are significant delays during a particular operating week. This provision is effective for weeks beginning 180 days after the date of enactment.

Sec. 103. Expansion of Electronic Access to Information about Refunds. The proposal aims to reduce unnecessary calls and letters by requiring upgrades to the IRS's "Where's my Refund?" tool, "Where's my Amended Return?" tool, and Online Account (or any successor systems) by January 1 of the first calendar year that starts 12 months after the date of enactment. While the IRS may be upgrading these tools, additional upgrades would provide more individualized information to taxpayers about the status of their refunds, including whether their return has been suspended, what the IRS has requested, and how to provide the information.

Sec. 104. Expansion of Callback Technology and Online Accounts. The proposal would establish deadlines for the IRS to deploy customer callback technology on virtually all customer-facing phone lines and upgrade its online accounts so that a taxpayer can view images of tax returns, documents, notices, and letters sent or received by the IRS. The account upgrades should allow taxpayers to authorize certain practitioners and preparers to view the same information subject to the limitations under section 6103. Practitioners and preparers would not need to log in to each client's account separately. The proposal would require implementation by January 1 of the calendar year that begins more than 12 months after the date of enactment.

Sec. 105. Improvement of Notices of Math or Clerical Error. The IRS has so-called "math error authority" to adjust returns in specific situations, but how it exercises this authority varies. IRS computers sometimes propose a change to a taxpayer's return by sending out a so-called "math error notice." These notices don't always provide specific information, including identifying what the IRS is changing. Some list more than one "potential" error, and they do not always list a response date. Without specific information, taxpayers and their representatives may need to call the IRS to learn what specifically triggered the notice or how to establish their return was correct. Unless they understand and respond to these notices within a relatively short deadline, taxpayers (and in particular low-income taxpayers) can lose out on significant tax benefits.

This provision would require the IRS to identify the type and nature of the math or clerical error, the code section to which it relates, the specific line of the return where the error was made, and the IRS's computation of any incidental adjustments. It would also require the notices to list a response date in large bold font near the top. The provision would require the IRS to make similar changes to clarify math error abatement notices. It would also require the IRS to conduct a pilot program to determine whether sending math error notices by certified or registered mail (like deficiency notices) would increase the response rate and report the results to Congress. This provision is effective for notices sent after the date which is 12 months after the date of enactment.

Sec. 106. Automation of Refund Offset Bypass for Individuals Facing Economic Hardship. The IRS generally offsets current-year tax refunds against prior-year Federal income tax debts but may bypass such offset and issue the refund if the taxpayer establishes an "economic hardship." A taxpayer is eligible for such a refund offset bypass if his or her income does not cover reasonable basic living expenses. Taxpayers who can claim the earned income tax credit (EITC) are generally eligible, but few apply. To avoid imposing economic hardships that taxpayers are eligible to avoid, the proposal would require the IRS to automatically bypass tax offsets for those eligible to claim the EITC. This provision is effective for offsets made after the date which is 12 months after the date of enactment.

Sec. 107. Installment Agreement Fees Eliminated for Certain Individuals. The cost to the IRS of processing installment agreements (IAs) – especially online payment agreements that directly debit from a taxpayer's account – is lower than the cost of tax collection. For those who cannot pay in full, IA fees imposed by the IRS can pose a barrier to repayment. The proposal would waive the fee for low-cost IAs that "direct debit" from a bank account, and for other IAs requested by low-income taxpayers. This provision is effective for installment agreements entered into more than 12 months after the date of enactment.

Sec. 108. Individuals Facing Economic Hardships Informed of Collection Alternatives. Many taxpayers who enter into "streamlined" installment agreements are experiencing an economic hardship. Those experiencing an economic hardship are generally eligible for collection alternatives such as a partial payment installment agreement, an offer-in-compromise, or having their account classified as "currently not collectible." Beginning not later than 12 months after the date of enactment, the proposal requires the IRS to inform them of available collection alternatives if they appear to be experiencing an economic hardship. The proposal would also require the Secretary, in consultation with the National Taxpayer Advocate, to report to Congress no later than two years after the date of enactment on the IRS's accuracy in identifying taxpayers who have an economic hardship, and whether its identification procedures could be used for other purposes.

Sec. 109. Quarterly Notices to Certain Taxpayers with Delinquencies. After an initial stream of notices, the IRS sends an annual notice to taxpayers who have tax delinquencies. Private creditors generally send bills more frequently (e.g., every month). More frequent notices could help delinquent taxpayers by encouraging them to pay what they owe or seek available collection alternatives. The proposal would require the IRS to send notices to taxpayers at least every quarter, except for those whose accounts the IRS has determined are not collectible. The IRS may send these notices electronically. This provision is effective 24 months after the date of enactment.

Sec. 110. Low-Income Taxpayer Clinic (LITC) Funding Unlocked. Under section 7526(c), an LITC can generally receive a federal grant of up to $100,000 and must match 100 percent of the grant. Section 7526(c) also purports to limit LITC funding to $6 million per year, but appropriations bills have provided funding above these limits. To help LITCs access appropriated funds, the provision removes the obsolete $6 million per year and $100,000 per clinic limits. It also authorizes LITCs to match less than 100 percent of the grant (but not below 25 percent) if the Secretary determines that such lower percentage would increase service to taxpayers. This provision is effective for calendar years beginning after the date of enactment.

Sec. 111. Chief Counsel Reviews of Offers-In-Compromise Streamlined. The IRS Office of Chief Counsel is currently required to review and provide a legal opinion for every accepted offer-in-compromise (OIC) if the amount of unpaid tax (plus interest) is $50,000 or more, even though very few OICs – including those above this threshold – present significant legal issues. This requirement delays OIC processing and diverts Counsel attorneys from performing core legal work. The provision would streamline review by requiring Counsel to issue an opinion for OICs only in cases that the Secretary determines present significant legal issues. The provision is effective for OICs submitted or pending on or after the date of enactment.

Sec. 112. Postponement of Certain Deadlines by Reason of Disasters Made Applicable to Limitation on Credit or Refund. Taxpayers generally must file a refund claim by the later of three years from the date such return was filed or two years from the date the tax was paid. Those who file their tax returns by the April 15 filing deadline ordinarily have until April 15 three years later. The IRS is only authorized to provide credits or refunds for overpayments made within a lookback period. For claims filed within three years of the return's filing, the lookback period covers amounts paid within three years of filing the claim, plus any extension of time for filing.

Separately, the IRS is authorized under section 7508A to "postpone" (or disregard) the tax return filing deadline due to certain disasters, but unlike an "extension" such relief does not automatically extend the three-year deadline to claim a credit or refund under section 6511. Consequently, some taxpayers who file refund claims within three years from the date they filed their returns may be surprised that their claims are rejected as untimely simply because they took advantage of a postponed filing deadline for the year in question.

Similarly, the IRS is required by section 6303 to demand payment within 60 days of an assessment, even if the payment deadline is postponed. As a result, the IRS may send letters demanding payments that have been postponed.

Under the provision, when the IRS postpones (or disregards) a filing deadline, the three-year lookback period for receiving a refund or credit is also extended. In addition, when the IRS postpones (or disregards) a payment deadline, the deadline for demanding payment is extended. These provisions are effective for claims filed and notices issued after the date of enactment.

Sec. 113. Modification of Procedural Requirements for Penalties and Disallowance Periods. Some penalties require supervisory approval under section 6751(b), but the statute leaves the timing of the required approval unclear. This ambiguity has generated litigation. In addition, although IRS procedures require supervisory approval of multi-year bans on claiming the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Credit, these procedures are not always followed. The provision would clarify that written supervisory approval is required before the IRS sends notice of its intent to apply a specific penalty to the taxpayer. The provision would also extend the approval requirement to multi-year bans. These changes apply to notices sent after the date of enactment. The provision also requires the IRS to issue an annual report on all assessed penalties beginning 24 months after the date of enactment.

Sec. 114. Return of Amounts Collected in Excess of Accepted Offer-in-Compromise Amount. Before the IRS agrees to accept an offer-in-compromise, it generally calculates the maximum amount the taxpayer can pay. If, after the offer is accepted, the IRS collects more than the offer amount, it is generally not authorized to return the extra collection proceeds. This can happen, for example, if after the offer is accepted the IRS does not release a continuous levy on wages or a pension, the taxpayer sells property subject to a tax lien, or the taxpayer inadvertently makes an extra payment. The proposal would require the IRS to release levies when it accepts an offer. It would also require the IRS to return amounts that it collects in excess of the offer amount, unless the agreement provides otherwise, or the taxpayer has defaulted on the offer. The changes apply to compromises accepted after the date of enactment.

Sec. 115. Extension of Period for Return of Amounts Subject to Wrongful Levy. The IRS is authorized under section 6343 to return money wrongfully levied upon if the taxpayer or third party requests the return within two years from the "date of levy." For paper levies delivered by hand or mail, the "date of levy" is the date the notice of levy was served. For levies delivered electronically, the "date of levy" is the date on which the IRS received the levied proceeds. Consequently, individuals subject to electronic levies may be able to recover wrongfully levied funds that those subject to paper levies may not recover. The provision would clarify that the date of the levy is the date the funds were received by the IRS. This provision is effective with respect to any money levied upon or any amount of money received from the sale of property after the date which is 12 months after the date of enactment.

Sec. 116. Modification of Rules for Postponing Certain Deadlines by Reason of Disaster. The IRS has the authority to postpone filing deadlines in the event of a presidentially declared federal disaster, but this does not extend to state-level disasters declared by governors. The provision would authorize the Secretary (after consulting with FEMA) to postpone federal filing deadlines in response to a request by a governor (or the Mayor, in the case of the District of Columbia) with respect to state disasters. The Secretary would be authorized to postpone federal filing deadlines, even if no federal disaster declarations has been made. The provision would also expand the mandatory federal filing extension from 60 days to 120 days. The provision is effective for declarations made after the date which is 12 months after the date of enactment.

Sec. 117. Reports to Congress. Within 2 years after the date of enactment, the provision requires the Secretary to provide a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (after consultation with the National Taxpayer Advocate, the Treasury Inspector General for Tax Administration, and the Comptroller General of the United States) on the implementation of sections 101 (scanning), 103 (dashboard), 104 (electronic access), and 105 (callbacks and online accounts), including any recommendations to Congress. It also requires the Secretary to provide an annual report to these committees on efforts to identify, prevent, and resolve tax fraud, including identity theft, beginning not later than 12 months after the date of enactment.

TITLE II—American Citizens Abroad

Sec. 201. Combined Tax and Foreign Bank and Financial Account Reporting. A person with a foreign bank account may have to report the account to the Financial Crimes Enforcement Network (FinCEN) on a Foreign Bank Account Report (FBAR) Form 114 and to the IRS on a tax return (e.g., Form 8938, Statement of Specified Foreign Financial Assets). The IRS enforces FBAR compliance but does not accept FBAR forms. FBAR forms must be filed with FinCEN. To reduce burden and confusion, the provision would require a person to file both the FATCA and FBAR forms with the IRS with a tax return (or, if no return is filed, at the same time and in the same manner as such a return) by the due date of the tax return. The IRS would then transmit the FBAR to FinCEN. The provision applies to returns and reports required to be filed after the date that is 24 months after the date of the enactment.

Sec. 202. Study and Reports on Simplification. This provision requires the GAO to provide a report to the Treasury and Congress within one year on the burdens of complying with federal tax laws on citizens living abroad, including problems specific to low- and moderate-income citizens, such as: filing returns and reports with the IRS and FinCEN in an affordable manner, understanding and responding to inquiries from these agencies, accessing services with respect to these returns and reports, and accessing financial services abroad. Within one year of GAO's report, the Secretary is required to report to Congress on the actions taken by Treasury to address any problems identified by the GAO and any recommendations for legislation to address such problems.

Sec. 203. Simplification of Currency Exchange Rules. Transactions denominated in foreign currency can give rise to gain or loss for U.S. taxpayers resulting from a change in the value of foreign currency. U.S. citizens and resident aliens are generally subject to tax on foreign currency gains in excess of a $200 exemption. The provision would increase the exemption for foreign currency gains from $200 to $1,000 and index it annually for inflation (rounded to the nearest $50).

When a taxpayer sells a home and pays off a mortgage denominated in a foreign currency, exchange rate losses cannot offset gains on the home and any loss on the sale of the home cannot offset foreign currency gains. The proposal would allow certain home mortgage currency gains and losses to offset gains and losses on a qualified residence, reversing the result in Rev. Rul. 90-

79, 1990-2 CB 187. It would also allow a taxpayer to refinance a mortgage on a qualified residence that is denominated in a foreign currency without recognizing gain or loss on the currency, provided the home is overseas.

When a taxpayer who works abroad is paid in foreign currency, U.S. taxable income is based on the value of the currency at the time it is received. The proposal would allow qualified individuals working abroad to use an average conversion rate for salary (and other income identified by the Secretary) received during the year instead of a different conversion rate for each payment. Each of these provisions are effective for taxable years beginning after the date of enactment.

Sec. 204. Increase in Threshold for Simplified Foreign Tax Credit Rules and Reporting. U.S. taxpayers are generally subject to tax on their worldwide income and receive credits for foreign taxes paid. Foreign tax credit rules are very complex and can be burdensome for taxpayers, including those residing abroad. Section 904(j) allows certain U.S. individuals who pay foreign income taxes on their investment income to elect to claim a "simplified" foreign tax credit of up to $300 ($600 in the case of a joint return) against their U.S. tax liability for the foreign income taxes, without applying complex limitation rules. This threshold was established in 1997. The proposal would increase the threshold to $1,000 ($2,000 in the case of a joint return) and index it annually for inflation (rounded to the nearest $50). This provision is effective for taxable years beginning after the date of enactment.

Sec. 205. Extension of Time for Persons Outside the United States to Request Abatement of Math Error. Taxpayers in the U.S. generally must respond to a math error notice within 60 days and to a deficiency notice within 90 days. U.S. taxpayers who reside abroad generally have 60 days longer to respond to a deficiency notice (i.e., 150 days), but no extra time to respond to a math error notice. The proposal would give taxpayers who reside abroad an extra 60 days (i.e., 120 days) to respond to a math error notice. This provision applies to notices sent over 180 days after the date of enactment.

Sec. 206. Reduced Burden for Lower Income Dual Citizen Expatriates; Clarification of Limitations Period. U.S. citizens who relinquish their U.S. citizenship are generally required to pay an exit tax if they (1) cannot certify they have filed accurate returns for the five preceding taxable years, (2) have assets above certain levels, or (3) have income above certain levels. Particularly for lower-income individuals who do not meet the income or asset thresholds, the cost of preparing U.S. tax returns abroad can be disproportionately burdensome. In addition, individuals are less likely to owe U.S. taxes if they pay high tax rates abroad.

The provision would authorize the Secretary to waive the filing certification requirement for an individual who is a dual citizen with limited contacts with the U.S., a tax home outside the U.S., and who files Form 8854, *Initial and Annual Expatriation Statement*, provided the Secretary determines that the amount of unpaid taxes for each of the five preceding taxable years is reasonably likely to be *de minimis*. This filing certification waiver applies to individuals whose expatriation date is on or after the first day of the first calendar year beginning after the date that is one year after the date of enactment. The Secretary is authorized to provide transition relief for certain individuals who expatriated before that date and after the date of enactment.

The provision also clarifies that the income tax limitations period for the expatriation year does not begin to run until the taxpayer files Form 8854 (*Initial and Annual Expatriation Statement*). This clarification applies to returns filed after the date of enactment.

Title III— Judicial Review

Sec. 301. Authorization of Subpoenas Before Hearings to Facilitate Settlements. The Tax Court's pre-trial discovery powers are more limited than those of other federal courts. It does not have express authority to issue a third-party subpoena for the production of documents before or in the absence of a hearing date. As a result, litigants sometimes attend pre-trial conferences solely to obtain books, records, and other key documents, increasing the likelihood that cases, which would otherwise be settled must go to trial. The provision would facilitate settlements (and trial preparation in the absence of settlement) by expressly empowering the Tax Court to authorize a third-party subpoena to require the production of documents before the hearing date. This provision is effective upon the date of enactment.

Sec. 302. Clarification of Tax Court Authority to Order Relief from a Judgment or Order. Once a Tax Court decision is final, it cannot be reopened. This finality rule, mandated by section 7481, has been described as "draconian" by a United States Court of Appeals because the Tax Court has less authority than district courts to make corrections. In some instances, the Tax Court has provided relief consistent with a district court's authority to provide relief under Federal Rule of Civil Procedure 60, but there is a lack of uniformity among the courts of appeals regarding the Tax Court's authority to provide such relief. The proposal expressly authorizes the Tax Court to provide relief from a final judgment or order in certain circumstances where justice so requires, consistent with the power of district courts under Federal Rule of Civil Procedure 60. For example, the provision provides that mistakes, newly discovered evidence, and fraud are potential grounds for the court to set aside its judgment. The provision also clarifies the Tax Court's authority to correct clerical errors or oversights in orders or decisions that are not yet final. This provision is effective upon the date of enactment.

Sec. 303. Authorization of Special Trial Judges to Hear Additional Cases and Address Contempt. Nineteen presidentially appointed Tax Court judges, senior judges who are recalled to the court, and special trial judges decide thousands of cases each year. Special trial judges are only authorized to hear certain types of cases. Empowering special trial judges to share more of the Tax Court's workload could increase the productivity and efficiency of the court. The proposal authorizes the parties in certain cases to consent to the assignment of the matter to a special trial judge and to the entry of a judgment. The proposal also extends to special trial judges contempt authority in limited circumstances. The contempt provision is effective upon enactment. The consent procedures are effective when the Tax Court adopts rules to implement them.

Sec. 304. Disqualification of Tax Court Judges and Special Trial Judges. Federal judges are generally subject to statutory disqualification standards. Tax Court judges, however, are not subject to disqualification standards that apply to other judges. The proposal extends to Tax

Court judges and special trial judges the same standards for disqualification that apply to other federal judges. This provision is effective upon the date of enactment.

Sec. 305. Notice, Review, and Burden of Production for Multi-Year Bans on Claiming Credits. If the IRS determines that a taxpayer improperly claimed the Earned Income Tax Credit (EITC), the Child Tax Credit (CTC), or the American Opportunity Tax Credit (AOTC), in certain circumstances, the taxpayer may be disallowed (i.e., banned) from claiming these credits for either two or ten years. This is so even if the taxpayer otherwise meets the eligibility requirements in those future years. Given the potential taxpayer impact of these bans, it is important that they are clearly described in notices of deficiency and subject to judicial review. Under current law, however, there is no requirement for the IRS to explain the ban in any written notice, and it is not clear if or when the Tax Court has jurisdiction to review bans. Although they operate like penalties for which the IRS has the burden of production under section 7491(c), it is unclear if the IRS has the burden of production for bans. When the IRS has the burden of production, it generally must produce evidence that it properly imposed the penalty (e.g., that the penalty was approved by a supervisor as required by section 6751).

The provision would require the IRS to explain a ban in a notice of deficiency, provide that the Tax Court can redetermine bans in connection with its review of a deficiency in the year the ban is imposed, and clarify that the IRS has the burden of production for bans in any such proceeding. Under a transition rule, the provision authorizes the Tax Court to redetermine certain bans determined in a prior year.

The provision requiring bans to be stated on notices of deficiency applies to notices mailed 36 months after the date of enactment. The provisions clarifying the Tax Court's jurisdiction to redetermine bans are effective upon the date of enactment. The provision requiring the IRS to bear the burden of production for bans applies to court proceedings beginning after the date that is 36 months after the date of enactment in connection with bans determined after that date. The transition rule, which authorizes the Tax Court to redetermine bans determined in a prior year, applies when the notice of determination for the taxable year for which the Secretary made the determination to impose the ban did not include the grounds for the ban and was mailed before 36 months after the date of enactment.

Sec. 306. Authorization of De Novo Review of Innocent Spouse Relief by the Tax Court and Other Courts. When the IRS assesses additional tax on a joint return, the "innocent spouse" is not required to pay the additional amount if granted "innocent spouse relief." The IRS has the discretion to grant "equitable" innocent spouse relief under section 6015(f). A taxpayer may request judicial review of the IRS's denial of innocent spouse relief in a "stand alone" case or in any case where a taxpayer's liability is at issue. Section 6015(e) provides for review of these determinations to be made "de novo by the Tax Court," but a taxpayer is generally prohibited from presenting evidence not previously presented to the IRS unless the evidence is "newly discovered." This is true even if the requesting spouse was subjected to domestic violence or psychological abuse that caused him or her not to present the evidence to the IRS. The limitation on introducing evidence can fall particularly hard on unrepresented taxpayers who did not understand this requirement when they were dealing with the IRS.

The provision would revise section 6015 to allow courts to consider all relevant evidence in reviewing innocent spouse cases, clarify that it is not within the IRS's discretion to withhold relief from those who qualify for equitable relief, and clarify that the defense can be raised in tax cases before district courts and bankruptcy courts where the taxpayer's liability is at issue. These provisions are effective for petitions and requests filed or pending on or after the date of the enactment.

Sec. 307. Clarification of Tax Court Jurisdiction to Apply Equitable Tolling in Deficiency Cases. The U.S. Supreme Court held in *Boechler* that the Tax Court has jurisdiction to waive the 30-day deadline for filing a petition in a collection due process (CDP) case when it is equitable to do so under common law (e.g., if a taxpayer misses a filing deadline because he is temporarily incapacitated). The Tax Court held in *Hallmark* that it has no such jurisdiction to extend the deadline under section 6213(a) to file a petition in response to a notice of deficiency. In *Culp*, the Third Circuit Court of Appeals reached the opposite conclusion.

The provision would clarify that the Tax Court has jurisdiction to extend the deadline under section 6213(a). It also provides that the Tax Court's dismissal based on a determination not to toll the period is not a decision on the merits, which might otherwise prevent the taxpayer from raising substantive issues in another case or forum due to *res judicata*. The provision applies to filings made after the date of the enactment. It is not intended to create any inference concerning petitions filed on or before the date of the enactment.

Sec. 308. Clarification of Tax Court Jurisdiction to Determine Tax Liability in Collection Due Process Appeals. The IRS takes collection actions against some taxpayers who did not have an opportunity to challenge their tax liability in court. Section 6330(c)(2)(B) provides that a taxpayer may dispute the existence or amount of the underlying tax liability at a CDP hearing if the taxpayer "did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability." Regulations interpret this to mean that a taxpayer cannot dispute the underlying liability if the taxpayer had an opportunity to dispute the liability with the IRS Independent Office of Appeals, even if any such appeal could not be reviewed by a court. To get judicial review, the taxpayer's only option may be to pay the tax the IRS says they owe and then seek a refund. This imposes unnecessary burdens and costs on taxpayers.

The provision would allow taxpayers to challenge the IRS-determined tax liability in a CDP hearing if they did not have a prior opportunity to dispute it in Tax Court. The provision is effective on the date of enactment.

Sec. 309. Authorization of the Tax Court to Issue Refunds in Collection Due Process Cases. When the Tax Court is reviewing a taxpayer's challenge to the IRS's determination of liability in connection with the appeal of a CDP hearing, the Tax Court has held that it does not have the authority to order a refund or credit. This imposes unnecessary burdens on taxpayers and creates judicial inefficiency by requiring the filing of multiple causes of action.

The provision would allow the Tax Court to order a refund or credit in all CDP cases in which it has jurisdiction to determine a taxpayer's tax liability, subject to the limitations period under section 6511. It would be effective for petitions filed after the date of enactment.

Sec. 310. Authorization of the Tax Court to Hear Suits for Refunds or Credits. Because of its tax expertise, low fees, and informal procedures, the Tax Court is a critical court in which to challenge an adverse IRS decision. Under current law, however, taxpayers generally may litigate in Tax Court only if the IRS determines they owe more tax. When taxpayers are seeking a refund solely because they believe they overpaid their tax, they are barred from the Tax Court and must litigate in other, more formal, and more costly federal courts.

The provision would expand the Tax Court's jurisdiction to determine tax liabilities and refunds in refund cases that could be reviewed by a district court or the Court of Federal Claims. It would be effective for actions filed after the date that is 18 months after the date of enactment.

Sec. 311. Authorization to Use Deficiency Procedures for Certain Penalties. The IRS is authorized to assess some penalties, such as the penalty for substantial understatement of income tax under section 6662, only after issuing to the taxpayer a notice of deficiency under section 6212. These "deficiency procedures" give the taxpayer an opportunity to petition the Tax Court to review the penalty before it is assessed and collected. In contrast, the IRS is authorized to assess and begin collecting "assessable penalties" under section 6201 before the taxpayer has had an opportunity to appeal or dispute them in court. The Tax Court held in *Farhy*, 160 T.C. No. 6 (2023), *rev'd*, No. 23-1179 (D.C. Cir. May 3, 2024), and in *Mukhi*, 163 T.C. No. 8 (2024), that the IRS is not authorized to assess or collect penalties under section 6038(b) for failure to file certain information returns because they are not "assessable penalties."

The provision would grant the IRS the authority to assess a civil penalty using deficiency procedures if it has identified the penalty in guidance as one that is not otherwise assessable under Title 26. While the IRS is normally prohibited from sending another notice of deficiency for the same tax year after a timely Tax Court petition is filed, in the case of a notice of deficiency for such penalties, this provision would only prohibit the IRS from sending an additional deficiency notice for the same act (or failure to act) to which the petition relates. The IRS would still be authorized to send a notice of deficiency for matters not covered by the penalty deficiency notice. The provision would be effective on the date of enactment.

Sec. 312. Authorization to Allow Claims for Refund in Certain Cases Where Full Tax Not Paid. In *Flora v. United States*, the Supreme Court held that 28 U.S.C. sec. 1346(a)(1) requires the full payment of all assessed tax before a suit for refund can be maintained. After having made only a partial payment against an incorrect liability, a taxpayer is generally barred by *Flora*'s full-payment rule from filing a suit for refund. If the taxpayer must delay the filing of a suit while attempting to pay the tax in full using an installment agreement, a court may not be authorized to order a full refund of the incorrect tax collected by the IRS because the refund is time-barred. The taxpayer is only entitled to a refund of amounts overpaid within a two- or three-year look-back period. When contesting an estate tax liability, section 7422(j)(1) provides an exception to the full-payment rule if the liability is being paid in installments by reason of an election under section 6166.

The provision creates a similar exception to the full-payment rule for taxpayers who are paying their tax liability in installments or whose account the IRS has determined is currently not collectible because they do not have the resources to pay, provided no other proceeding is pending which may lead to judicial review. The provision authorizes the court, upon a request by the Secretary, to dismiss the case (which may be refiled later) if the taxpayer stops making installment payments or is no longer in currently not collectible status. The provision is effective for actions filed on or after the date of enactment.

Title IV—Office of The Taxpayer Advocate

Sec. 401. Authorization to Direct Hire Attorneys. The National Taxpayer Advocate (NTA) has long employed attorneys to provide independent legal advice and to help fulfill her statutory duties. In 2015, the IRS denied the NTA's request to backfill these positions. It said the law requires all IRS attorneys to report to the IRS Chief Counsel. The NTA cannot promote attorneys or replace those lost to attrition. The proposal would authorize the NTA to direct hire attorneys in the Office of the Taxpayer Advocate who report directly to the NTA, rather than the IRS Chief Counsel. The provision does not change the role of IRS Chief Counsel attorneys or bar the NTA or the Office of the Taxpayer Advocate from continuing to receive advice from them. The provision is effective on the date of enactment.

Sec. 402. Authorization to Make Personnel Decisions. To protect the independence of the Taxpayer Advocate Service (TAS), the tax code provides that the NTA has the authority to take independent personnel actions for employees of local TAS offices (and other IRS functions do not). It does not address national office employees. National office employees who advocate for systemic changes in IRS practices and policies are likely to require similar personnel protection. The provision would clarify that the NTA has the authority to take independent personnel actions for all TAS employees. The provision is effective 12 months after the date of enactment.

Sec. 403. Access to Internal Revenue Service Information, Legal Advice, and Meetings. The NTA reports that the IRS has in the past occasionally declined to provide her office with the timely information it needs to advocate for taxpayers or to produce her reports to Congress (including privileged legal advice), and access to conferences between the IRS and taxpayers who have open TAS cases.

The provision would clarify that the IRS is required to give the NTA and her employees access to all of the information, including legal advice, necessary to fulfill her statutory duties (e.g., assisting taxpayers and reporting to Congress on systemic problems and legislative solutions). The provision would clarify that providing such information or legal advice to TAS does not affect otherwise applicable privileges. It would also allow TAS employees to participate in taxpayer conferences when requested by the taxpayer. While the provision establishes two weeks as a default deadline for the IRS to provide such information or access, the parties may agree to longer or shorter deadlines based on the circumstances. The provision would also require the NTA to include in her Annual Report to Congress any failure by the IRS to provide such information or access. The provision is effective on the date of enactment.

Sec. 404. Limitation Period Suspension for Taxpayers Seeking Assistance from Taxpayer Advocate Service Repealed. When a taxpayer requests assistance from TAS in writing, section 7811(d) extends the period of limitations within which the IRS may assess or collect tax. The provision is intended to protect the IRS's interests, but the IRS has not implemented it since its enactment in 1988. Such an extension is unnecessary because TAS does not take actions that would cause these periods to lapse. In addition, the provision does not apply when a taxpayer requests assistance from TAS by phone. If implemented, taxpayers who request TAS assistance in writing and taxpayers who request TAS assistance by phone would be treated differently. The provision repeals section 7811(d). The provision is effective on the date of enactment.

Sec. 405. Operations to Assist Taxpayers Experiencing Hardships During a Lapse in Appropriation. Automated enforcement actions may continue during a government shutdown due to a lapse in appropriations. Unless the IRS determines that IRS employees are exempt from a furlough, they are prohibited from assisting taxpayers, even those taxpayers who are experiencing economic hardships due to those automated activities. The provision would clarify that during a lapse in appropriations, the IRS (including the Office of the Taxpayer Advocate) may incur obligations in advance of appropriations to the extent necessary to assist any taxpayer who is or may be experiencing an economic hardship within the meaning of section 6343(a)(1)(D) and to comply with any Taxpayer Assistance Order issued pursuant to section 7811. The proposal is effective on the date of enactment.

Title V—Tax Return Preparers

Sec. 501. Penalties for Tax Return Preparers Who Improperly Alter Returns. A penalty applies to a tax return preparer who prepares a return that unreasonably understates a liability or who violates other rules under sections 6694, 6695, or 6695A. These penalties do not apply when a tax return preparer alters the taxpayer's return after it has been signed (e.g., to claim an unreasonably large refund or by altering the taxpayer's direct deposit information to have the refund deposited into the preparer's account). Preparer penalties do not apply because the altered submission is not considered a "return," and the preparer penalties only apply to the preparation of returns.

The provision expands the definition of a "return" for purposes of preparer penalties to include, among other things, a document that purports to be a return. The provision is effective on the date of enactment.

Sec. 502. Penalties for Invalid or Appropriated Preparer Identification Numbers. The penalty under section 6695(c) for failure to provide a preparer tax identification number (PTIN) does not clearly apply to a preparer who provides the taxpayer with the wrong PTIN, another person's PTIN, or a PTIN that has been suspended. Similarly, no penalty applies to an electronic return originator (ERO) who provides the IRS with the wrong electronic filing identification number (EFIN), another person's EFIN, or an EFIN that has been suspended.

Unless a preparer had reasonable cause, this provision would impose a penalty of $250 for each failure to furnish a valid PTIN, up to a maximum of $75,000. It would also impose a $250 penalty each time an ERO provides the wrong EFIN, unless an ERO had reasonable cause. The

Secretary is required to establish a program to help preparers and EROs avoid these penalties, including by giving them an opportunity to withdraw the return(s) or provide a valid number.

To deter "ghost" preparers who intentionally violate the rules, the provision would make it a felony, punishable by a fine of up to $50,000 ($100,000 in the case of a corporation) or 2 years in prison, or both, to willfully fail to furnish a PTIN, willfully furnish an invalid PTIN, or willfully furnish a PTIN assigned to another person. These provisions apply to returns or claims for refund filed after the date which is 18 months after the date of enactment.

Sec. 503. Penalties for Improper Tax Preparation or Misappropriation of Refunds Authorized. The proposal would increase the following penalties under section 6695 to discourage improper behavior by tax preparers and to protect taxpayers:

Preparer Penalties	Current Law*		Proposal	
Failure to…	Per Offense	Maximum	Per Offense	Maximum
furnish a copy of a return or a claim for refund to taxpayer	$65	$32,500	$250	$50,000
sign a copy of a return or a claim for refund	$65	$32,500	$250	$75,000
furnish preparer's identifying number**	$65	$32,500	$250	$75,000
retain completed copy of prepared return or list of taxpayers for whom returns were prepared	$65	$32,500	$250	$50,000
file correct information returns identifying the return preparers employed by a person	$65 per item	$32,500	$250 per item	$75,000
refrain from endorsing or negotiating a check or misappropriating a transfer in respect of taxes***	$650 per check	none	$1,000 per check	none
comply with certain due diligence requirements	$650 per failure	none	$1,000 per failure	none

* Penalty amounts include inflation adjustments provided by sec. 2.55 of Rev. Proc. 2024-40.
**The civil penalty for failure to provide a valid PTIN is increased by section 502 but also listed here. A criminal penalty is established under section 503 for willful failures but not listed here.
***The penalty for negotiating a check under 6695(f) is expanded to cover misappropriation of refunds by a preparer who does so by altering direct deposit information on a return.

These changes are effective on the date of enactment.

Sec. 504. Authority to Deny, Revoke, or Suspend Preparer Tax Identification Numbers.

Current law

The IRS has the authority under section 330 of Title 31 of the U.S. Code (and regulations thereunder, called "Circular 230") to ensure those who "practice" before the IRS – attorneys, certified public accountants (CPAs), and enrolled agents (EAs) (practitioners) – are competent and fit to practice. As a result of a 2014 decision by the D.C. Circuit Court of Appeals in *Loving v. U.S.*, it has no similar authority with respect to paid tax return preparers who are not already subject to Circular 230. Since *Loving*, every administration has proposed to reinstate this authority.

Studies by GAO, TIGTA, and others have consistently found that tax returns prepared by non-credentialed preparers have higher levels of inaccuracies than other returns. In addition, preparers who encourage taxpayers to claim credits that they do not qualify for are consistently on IRS's list of the top "dirty dozen" tax scams. Not only do these scams drain federal revenues, but they also harm taxpayers who are liable for repaying any improperly received amounts along with interest and penalties. Many of these taxpayers are unaware that the preparer they utilized is offering incorrect or fraudulent advice. Moreover, many are not in a position to understand the consequences of following such bad advice.

Non-credentialed preparers who voluntarily take 18 hours of continuing education (CE) each year, which includes a 6-hour refresher course, pass a knowledge-based comprehension test at the end of the course, and meet certain other requirements are listed on the IRS website as having completed the "Annual Filing Season Program" (AFSP). They may publicize this credential. If they meet certain requirements and agree to comply with Circular 230, the Secretary permits them to represent taxpayers whose returns they prepared before the IRS examination function.

Section 6109 requires that a return include the preparer tax identification number (PTIN) of any paid preparer. However, there are no requirements to obtain a PTIN and prepare returns beyond paying the PTIN fee. Demonstrating incompetence, defrauding taxpayers, or otherwise demonstrating a lack of fitness to prepare returns are not grounds for the IRS to deny, revoke, or suspend the preparer's PTIN.

Congress has serious concerns about the impact that incompetent or unscrupulous tax return preparers have on taxpayers and tax administration. This provision seeks to address these concerns in several ways.

Requirements to Obtain and Maintain a PTIN

The provision requires a paid, non-credentialed tax return preparer to demonstrate suitability to be a tax return preparer by providing information about the competence and character of the preparer, passing a criminal background and tax compliance check, taking up to 18 hours of CE each year (including ethics, professional responsibility, and tax law), and demonstrating they have attended and participated in this CE.

The provision prohibits the IRS from requiring the preparer to take an exam or attend classes from any particular CE provider, so long as it includes written materials and meets minimum standards established by the Secretary. The Secretary is required to post on its website educational programs that meet its standards and the providers of such programs.

Before renewing a PTIN, the provision authorizes the Secretary to require a preparer to complete additional CE (but not more than the 18-hour maximum) on specific subject areas that are based on the errors identified on returns filed under the PTIN.

The Secretary may continue the AFSP program or an equivalent track, permit a tax return preparer who has met the program's requirements to continue to have limited rights to represent taxpayers before exam just like those with an AFSP certificate. The Secretary can also continue to offer to list participants on its website, provided they satisfy the requirements.

Circular 230 Practitioners and those Licensed by State Programs Exempt

The provision exempts from the suitability and CE requirements a licensed attorney, CPA, or enrolled agent (EA) who is authorized to practice before the Secretary under Circular 230 (a "specified practitioner") and any other return preparer licensed or registered by a state that has established comparable requirements to the provision. An individual licensed or registered by a state program that is comparable today will be exempt even if the program was not comparable when the individual was first admitted (e.g., because it did not require background checks). The Secretary also has authority to waive background checks for those who have already undergone one.

Persons Paid to Preparer Offers Required to Include Identifying Numbers

The provision also requires that a person who is paid to prepare an offer-in-compromise must include an identifying number on the offer. Those that fail to do so may be subject to a $250 penalty (adjusted for inflation) for each offer up to a maximum of $75,000 (adjusted for inflation), unless the failure is due to reasonable cause and not willful neglect.

Sanctions for Violations

The provision also authorizes the IRS to deny, suspend, or revoke the PTIN of a preparer who does not meet the suitability or CE requirements, is incompetent or disreputable as defined by certain objective standards, is subject to Circular 230 and violates regulations prescribed thereunder, or if the Secretary determines that doing so would promote compliance and effective tax administration.

The Secretary's determinations to deny, suspend, or revoke a PTIN can be appealed to the Internal Revenue Service Independent Office of Appeals (Appeals). The Secretary may preliminarily suspend a PTIN for up to 180 days after notice and an opportunity to respond if doing so is necessary to prevent serious economic harm to taxpayers or serious impairment of federal tax administration, such as to prevent the filing of fraudulent returns or claims for refund.

If an individual is preliminarily suspended 2 times during any 5-year period, the Secretary may not issue an additional preliminary suspension unless the Secretary has determined to suspend or revoke the individual's PTIN. The Secretary may reinstate a PTIN upon demonstration that the basis for the sanction has been resolved.

The Secretary may impose a penalty of up to $1,000 (adjusted for inflation) for each non-willful violation of the rules of this section. The maximum penalty increases to $5,000 (adjusted for inflation) if the preparer with the intent to defraud, willfully and knowingly misleads or threatens the client or potential client. Any such penalty is reduced by the amount of any other preparer penalties imposed under sections 6694, 6695, 6700, 6701, and 6702 to avoid stacking.

Transparency

The provision requires that any final disciplinary determination with respect to a practitioner or preparer be posted on the internet within 30 days after redacting information that could identify third parties. It also requires the IRS to publish each year the 10 most frequent errors found on returns prepared by tax return preparers and the top 10 reasons that preparers were subject to penalties or discipline.

GAO Report

Within 18 months after enactment, the GAO is required to report on the sharing of information between the Secretary and state authorities regarding PTINs and return preparer minimum standards.

Effective Dates

The provision is effective 180 days after the date of enactment, except that preparers with an AFSP certificate on the date of enactment will be treated as satisfying the educational requirement for the year to which the certificate applies. Courses offered by providers approved to provide education for purposes of the AFSP are treated as meeting the requirements of this provision until the Secretary has established requirements as provided by this provision and published a list of approved educational programs.

Title VI—Independent Office of Appeals

Sec. 601. Authorization for Office of Appeals to Hire Attorneys. Although Appeals must consider the "hazards of litigation" in settling cases without litigation, it is not authorized to hire its own attorneys. It relies on the legal analysis of attorneys who work for the IRS Office of Chief Counsel (Chief Counsel). Although these attorneys are prohibited from providing advice to both the exam and appeals functions on the same case, they frequently provide legal analysis to the IRS enforcement functions and advocate for the Commissioner's positions in court.

The proposal would enhance the independence of Appeals by authorizing it to hire attorneys who report directly to the Chief of Appeals, rather than to Chief Counsel. The provision does not change the role of Chief Counsel attorneys or bar Appeals from continuing to receive advice from them. The provision is effective on the date of enactment.

Sec. 602. Authorization for Office of Appeals to Direct Hire Certain Individuals. In the past, Appeals has had difficulty hiring qualified personnel, especially those who do not work for IRS enforcement functions. To address this challenge and to support Appeals' independence from the IRS enforcement functions whose decisions Appeal's employees review, the provision would authorize Appeals to use "direct hire" authority to quickly hire qualified candidates who do not work for IRS enforcement functions. The provision is effective on the date of enactment.

Sec. 603. Responses to Claims for Refund Required; Appeal of Claims for Refund Authorized. When a taxpayer files a timely claim for refund (within the period provided by section 6511(c)), the IRS is not required to respond. After 6 months, if the IRS has not responded the taxpayer may file a refund suit. Judicial resources may be expended before the IRS's exam function or Appeals have had an opportunity to evaluate the claim.

The provision would require the IRS to examine timely claims for refund submitted in the form and manner required and mail a notice of determination to the taxpayer's last known address within 36 months or such later date as agreed to by the parties. Any such notice must include a detailed explanation of the determination, and instructions for appealing the determination to Appeals. The taxpayer may appeal a disallowance within 30 days. If the IRS does not timely respond, the provision permits the taxpayer to treat the IRS's failure to timely respond as a disallowance, and triggering the taxpayer's right to appeal the denial to Appeals. In such cases, the provision would require the IRS to pay additional interest (an additional 1 percent, up to $1,000, annually adjusted for inflation) on any refund due. The period for filing suit is suspended during the pendency of any such appeal. Frivolous claims are not covered by the requirement to provide a detailed written explanation or access to Appeals. The provision is effective for claims received more than 12 months after the date of enactment.

Sec. 604. Appeals of Returned Offers. Section 7803(a)(3)(E) provides that taxpayers have the right to appeal a decision of the IRS in an independent forum. Although taxpayers can appeal the rejection of an offer-in-compromise to Appeals, they cannot appeal a determination that their offer is "non-processable." Taxpayer advocates have observed that this is a de facto rejection of offers that are sometimes processable. They report, for example, that offers may be returned as non-processable because the IRS believes the taxpayer has unfiled returns, even if the taxpayer was not required to file. Without any clear way to appeal complicated processability determinations, taxpayers may have difficulty resolving tax delinquencies. The provision would clarify that taxpayers can appeal a determination that an offer is "non-processable" to Appeals. The provision is effective on the date of enactment.

Sec. 605. Purposes and Duties of Independent Office of Appeals; Right of Appeal Clarified. The mission of Appeals is to resolve tax controversies without litigation on a basis which is fair and impartial, and in a manner that will enhance voluntary compliance and confidence in the integrity and efficiency of the IRS. To help ensure Appeals has full authority to avoid litigation, the provision clarifies that without exception, Appeals shall consider the hazards of litigation (i.e., the likely outcome if the dispute were litigated).

Section 7803(e)(4) currently provides that access to appeals shall generally be available to all taxpayers, but regulations provide significant exceptions. The provision expands access to Appeals by emphasizing a taxpayer's right to access Appeals and codifying limited exceptions. The exceptions only include appeals:

> (1) Of disputes that do not involve liability for tax, penalties, or additions to tax. Appeals' core mission is to resolve controversies concerning tax liabilities and not necessarily to resolve other types of controversies (e.g., disputes about the availability of certain administrative procedures such as Taxpayer Assistance Orders).
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> (2) Based solely on the argument that a statute, regulation, or other guidance issued by the Secretary is unconstitutional or otherwise invalid unless there is an unreviewable decision from a federal court holding that the item is unconstitutional or otherwise invalid. A determination that such authorities are invalid should be addressed in a public court decision so that secret law does not develop. Appeals is also not well situated to definitively opine on the validity of tax laws or official IRS or Treasury guidance. In cases that implicate other factual or legal issues, however, Appeals will continue to consider the validity of any applicable law or guidance and the weight that a court would give to it.
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> (3) Of a position rejected in federal court and identified as frivolous by the Secretary (or an associated penalty). Evaluating frivolous submissions is not an efficient use of Appeals' limited resources.
>
> (4) Of issues resolved by a closing agreement under section 7121. An agreement to resolve a matter is an alternative to seeking resolution at Appeals.
>
> (5) Of a matter that could interfere with the criminal prosecution of a tax-related offense. As a matter of practice, criminal tax controversies are resolved before any civil controversies, in part, to prevent taxpayers from inadvertently incriminating themselves. It would be inappropriate to require Appeals to address civil claims prematurely.
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> (6) A case that Chief Counsel has designated for litigation and is prepared to litigate timely. Timely resolution of disputes in court can provide clarity to taxpayers and reduce litigation in other cases. The provision, however, does not authorize the designation of an entire class of cases for litigation, as doing so unnecessarily delays the resolution of disputes and does not appropriately account for factual and legal differences between cases.

The provision does not prevent Appeals from hearing cases or classes of cases that it is not required to hear. Nor does the provision affect other statutory provisions that expressly grant or deny taxpayers a review by Appeals. The provision is effective as of the date of enactment.

Title VII—Whistleblowers

Sec. 701. Standard and Scope of Review of Whistleblower Award Determinations. The current IRS whistleblower statute provides a whistleblower the right to appeal an IRS award determination to the Tax Court. The Tax Court has ruled in *Kasper v. CIR*, that it can only review IRS award determinations based on the highly deferential "abuse of discretion" standard. This provision clarifies that the Tax Court should review all such decisions "de novo," which will allow the Court to take a fresh look at the record and evidence introduced on appeal to determine the soundness of the IRS decision. Any such review is based on the administrative record at the time of the decision and any newly discovered evidence. The provision is effective for petitions pending on or filed on or after the date of enactment.

Sec. 702. Exemption from Sequestration. The Office of Management and Budget has determined that IRS whistleblower awards are subject to budget sequester which can reduce mandatory awards below the statutory floor of 15 percent. Other whistleblower award programs, such as the False Claims Act, are not subject to sequestration. IRS awards are necessarily paid out of collected proceeds or amounts that the government would not have received but-for the actionable information provided by the whistleblower. Those who risk coming forward and generate significant revenue to the Treasury should receive the full congressionally mandated awards under section 7623. The proposal would exempt 7623 awards from budget sequestration. The provision is effective for any sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) after December 31, 2022.

Sec. 703. Whistleblower Privacy Protections. The Tax Court has generally used its own discretion to allow IRS whistleblowers to proceed anonymously before the Court. However, the IRS has occasionally contested motions by a whistleblower to proceed anonymously. Disclosure of the whistleblower's identity puts the individual in jeopardy and deters other whistleblowers from coming forward to share actionable information. Further, identification of the whistleblower may lead to the identification of the taxpayer (who is not a party to the case). This provision clarifies that when appealing an award decision, the whistleblower will proceed anonymously before the Tax Court unless the court determines there is a heightened societal interest in knowing the whistleblower's identity that outweighs the potential harm of disclosure. The provision is effective for petitions which are pending on, or filed on or after, the date of enactment.

Sec. 704. Modification of IRS Whistleblower Report. The proposal would require that the IRS Whistleblower Program's annual report to Congress list the top ten areas where whistleblowers have identified tax avoidance schemes. This real-time information on violations will assist congressional tax writing committees in strengthening the tax laws. The provision is effective for reports for fiscal years ending after the date of enactment.

Sec. 705. Interest on Whistleblower Awards. Whistleblower claims can take years to go through the IRS review and award determinations process. IRS whistleblowers have expressed concerns that the IRS has sometimes delayed issuing awards even after the IRS has collected all proceeds. This provision seeks to ensure IRS pays awards in a timely manner. Interest begins to accrue on an award if the IRS fails to provide notice of a preliminary award recommendation within 12 months of the first date on which all proceeds are collected and no opportunity remains for the taxpayer to contest the liability or seek a refund. In general, the provision is effective 180 days after the date of enactment. The provision requires interest on whistleblower awards beginning on the date that is 18 months after the date of enactment.

Sec. 706. Correction Regarding Deduction for Attorney's Fees. The 2006 amendments to section 7623 provided that whistleblower attorney's fees would not be included in income under the new mandatory award program created under section 7623(b). However, similar treatment was not put in place for awards under the discretionary IRS award program described in section 7623(a). The proposal ensures conformity of tax treatment of attorney's fees between the two IRS award programs and with other federal whistleblower award programs. The provision is effective for taxable years ending after the date of enactment.

Sec. 707. Nondisclosure of Return Information by Whistleblowers. One of the major complaints expressed by IRS whistleblowers is that the IRS does not work more closely with them in developing cases or explain the basis for its award determinations. This reluctance to work closely with whistleblowers and disclose information to them could be due, in part, to a concern by the IRS that the whistleblower might redisclose the information.

The provision prohibits the whistleblower or the whistleblower's representative from re-disclosing the taxpayer information obtained from the IRS unless the information has already been disclosed in a judicial or administrative proceeding. The provision also clarifies that the whistleblower is not barred from redisclosing information that has been disclosed to the public in a judicial proceeding. This clarification concerning whistleblowers is not intended to create an inference that section 6103 currently bars others (including the IRS) from redisclosing information that has been disclosed to the public in a judicial proceeding. The provision is effective as of the date of enactment.

Sec. 708. Appeal of Award Determinations. IRS whistleblowers wait over ten years on average to get paid, and in some cases, they feel the need to challenge what they view as an unexplained or inadequate award determination in court, which can take even longer. This delay discourages some whistleblowers from coming forward.

The proposal would allow whistleblowers the option of appealing an IRS award determination to Appeals within 30 days of the determination. Appeals can evaluate the same hazards of litigation that the IRS would face in court and potentially settle award disputes more quickly without litigation, and without the risk of disclosing either the whistleblower's identity or information about third parties in court. An Appeals determination would be subject to further review by the Tax Court. The provision is effective as of the date of enactment.

Title VIII—Stopping Tax Penalties on American Hostages

Sec. 801. Postponement of Tax Deadlines for Hostages and Individuals Wrongfully Detained Abroad. Under current law, tax deadlines are postponed while an individual is serving in the U.S. Armed Forces or in support of such Armed Forces, in an area designated as a "combat zone" and during their hospitalization resulting from such service. However, individuals who are unlawfully or wrongfully detained or held hostage abroad are expected to meet their tax deadlines. Upon their release, some former hostages have reportedly returned to a stack of bills for tax, penalties, and interest.

The provision extends the tax deadlines of any applicable individual who is unlawfully or wrongfully detained or held hostage abroad (and the individual's spouse). On January 1 each year the Secretary of State and the Attorney General are required to send the Secretary of the Treasury a list of eligible individuals. Then the IRS abates and refunds any interest, penalty, or additional amounts assessed for the period that tax deadlines are postponed. The provision is effective for taxable years ending after the date of enactment.

Sec. 802. Refund and Abatement of Penalties and Fines Paid by Eligible Individuals. Under section 6511, a three-year limit on claiming refunds may bar refunds to some hostages and individuals unlawfully detained abroad who would otherwise be eligible for relief under section 801.

The provision extends the limitations period under section 6511 for claiming refunds of interest, penalties, and additional amounts attributable to periods between January 1, 2021 and the date of enactment until one year after the IRS provides the individual with notice that they may be entitled to relief. The provision also requires the IRS to send such notices. It is effective for taxable years ending on or before the date of enactment.

Title IX—Small Business

Sec. 901. Implementation of Voluntary Withholding Agreements for Payments to Independent Contractors. Under current law, independent contractors (ICs) face the burden of directly paying their estimated taxes on a quarterly basis. Some would prefer for their taxes to be withheld from their earnings. Businesses that receive services from both employees and ICs could withhold taxes for the ICs by adding the ICs' withholding to the taxes that they already remit for employees.

The Secretary is authorized by section 3402(p)(3) to provide for voluntary withholding by a business on payments if both parties agree. Oversight agencies such as GAO and TAS have recommended that the Secretary issue guidance to implement voluntary withholding agreements for ICs, but no such guidance has been issued.

To cut red tape for small businesses, the provision expressly permits voluntary withholding on non-wage remuneration. It also directs the Secretary to issue regulations or guidance on the amount to be withheld and the types of payments considered non-wage remuneration. It is effective on the date of enactment.

Sec. 902. Extension of Time for Making S Corporation Elections. Individuals who incorporate their small businesses sometimes miss the deadline for electing to be treated as an "S" corporation because the election deadline usually precedes the filing deadline for the corporation's first income tax return. Taxpayers routinely obtain permission to make late elections, but doing so is burdensome and costly. The provision would allow taxpayers to elect "S" status on their first timely filed corporate income tax return. It would also permit late elections to revoke S status, if they are late due to reasonable cause. It would be effective for elections for taxable years beginning after the calendar year of enactment, and revocations made after the date of enactment.

Sec. 903. Quarterly Installments for Estimated Income Tax Payments by Individuals. Estimated tax installment payments for individual taxpayers are called "quarterly payments," but they are due at three-month, two-month, three-month, and four-month intervals (April 15, June 15, September 15, and January 15). This is confusing to taxpayers. The provision would revise the estimated tax payment deadlines so they fall at even quarterly intervals (April 15, July 15, October 15, and January 15). It is effective for installments due in taxable years beginning after the date of the enactment.

Sec. 904. Establishment of a Failure-to-Pay Penalty Safe Harbor for Individuals. Taxpayers sometimes request extensions of time to file tax returns. These extensions allow individuals an additional six months – generally from April 15 to October 15 – to prepare the tax return, but do not extend the payment deadline. A failure to pay penalty applies to amounts not paid by the April deadline, even if the taxpayer needs a filing extension. Taxpayers who file an extension because they do not have the information they need to compute their tax liability still need to estimate how much to pay. While section 6654(d) provides that an individual can avoid an estimated tax penalty by making four equal estimated tax payments totaling 100 percent of the tax shown on the prior-year's return (or 110 percent for those with higher incomes), no similar safe harbor applies to the failure to pay penalty.

The provision would waive the failure to pay penalty for individuals who timely pay (without regard to any extension) 125 percent of the amount of tax required to be shown on the person's prior year return by the due date. This safe harbor does not apply to entities, those who have not fully paid when they file their return, or those who do not file their return by the extended due date. Nor does it apply to those who did not file a return during the prior year or those whose prior-year return covered less than a 12-month period. Interest continues to run on any unpaid tax during the period of extension. The provision is effective for taxable years beginning more than 12 months after the date of enactment.

Sec. 905. Extension of Mailbox Rule to Electronic Submissions and Payments. If the IRS receives a document or payment late, it is treated as timely if the taxpayer can show it was timely mailed using certain delivery services. This "mailbox rule" does not apply to most electronic submissions. For example, an electronic payment submitted through the Electronic Federal Tax Payment System (EFTPS) on the due date can be treated as late, but a check placed in the mail on the due date will be treated as timely. This leads to many taxpayers using registered or certified mail to communicate with the IRS. The proposal would extend the mailbox rule to electronic submissions using any transmission method permitted by the Secretary. The provision is effective for documents and payments sent one year or more after the date of enactment. It also requires the Secretary to issue implementing regulations by that date.

Sec. 906. Specificity of Third-Party Contact Notices. Because asking a third party for information about a taxpayer can damage the taxpayer's reputation or business, the IRS is required to provide advance notice of third-party contacts to taxpayers. However, the IRS is not required to tell the taxpayer what information it needs or to give the taxpayer a reasonable opportunity to provide the information so that the contact is unnecessary. The provision would require the IRS to provide taxpayers with a notice that identifies the specific information it plans to request from a third party and give the taxpayer an opportunity to provide the requested information. This requirement would not apply if the taxpayer would not be expected to have the information the IRS needs (e.g., the IRS needs to verify information provided by the taxpayer) or if another statutory exception applies (e.g., if advance notice would jeopardize the collection of tax). This provision is effective 12 months after the date of enactment.

Title X—Miscellaneous

Sec. 1001. Authority for Redisclosure of Certain Tax Information Related to Education Loans to the Congressional Budget Office. The Congressional Budget Office (CBO) previously received from the Department of Education (ED) the income of student loan and Pell grant recipients, which ED obtained directly from borrowers. CBO needs this data for analysis that it conducts for Congress. As a result of the FUTURE Act, Pub. L. No. 116-91, ED is receiving income information from the IRS (rather than from borrowers), which is classified as federal tax information (FTI). FTI can only be disclosed to the extent authorized. CBO receives federal tax information for other purposes and is compliant with the IRS's security requirements but is not currently authorized to receive this borrower data.

The provision would amend section 6103(l)(13)(D) to authorize CBO to continue to receive this data. It would also require ED to submit an annual report to the Secretary of the Treasury regarding any authorized redisclosures, unauthorized redisclosures, and unauthorized use or access. The provision is effective for disclosures made after the date of enactment.

Sec. 1002. Authorization to Require Large Partnerships to File on Magnetic Media. There continue to be disputes about whether and when returns are filed by large partnerships. Such disputes are less likely when the returns are required to be filed electronically. A partnership is currently required to file electronically if it files at least 10 returns (not counting Schedules such as K-1) or has more than 100 partners. This requirement is subject to waivers based on undue hardship, religious belief, or if IRS systems do not support electronic filing. Certain partnerships with significant assets or economic activity are not required to file electronically.

The provision would authorize the Secretary to require returns to be filed electronically by partnerships with assets or liabilities greater than $10,000,000 in any of the three preceding taxable years, or any item of income or loss greater than $10,000,000 in any of the three preceding taxable years. It does not change the requirement for partnerships with more than 100 partners or filing at least 10 returns to e-file. The provision is effective for returns filed on or after January 1 of the first calendar year beginning after the date of enactment.

Sec. 1003. Imposition of Penalty for Erroneous Claims Relating to Employment Taxes. Section 6676 applies a 20 percent penalty to an excessive claim for refund or credit of *income tax*, unless the excessive claim was due to reasonable cause. This penalty does not apply to excessive claims for refund or credit of *employment tax*. The provision would apply this penalty to excessive claims for refund or credit of any tax, including employment tax claims. It is effective for claims filed after the date of enactment.