119TH CONGRESS
2D SESSION

S. 5173

To amend the Internal Revenue Code of 1986 to treat tax penalties as assessable in the same manner as taxes, to provide notice requirements for certain penalties, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2026

Mr. WHITEHOUSE (for himself and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to treat tax penalties as assessable in the same manner as taxes, to provide notice requirements for certain penalties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness in Foreign Filing Act".

SEC. 2. TREATMENT OF TAX PENALTIES.

(a) TREATMENT OF PENALTIES AS TAXES.—Section 6671(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking "The penalties and liabilities provided by this subchapter" and inserting the following:

"(1) IN GENERAL.—Any penalties provided by this title, including the penalties and liabilities provided by this subchapter,",

(2) by striking "the penalties and liabilities provided by this subchapter." and inserting "the penalties provided by this title, including the penalties and liabilities provided by this subchapter.", and

(3) by adding at the end the following new paragraph:

"(2) EXCEPTION.—Paragraph (1) shall not apply to any penalty not provided by this subchapter if such penalty is a penalty for which a civil or criminal action is prescribed as the method of collection or has been consistently treated by the Secretary before the date of the enactment of this paragraph as such a penalty.".

(b) NOTICE REQUIREMENT FOR CERTAIN PENALTIES.—

(1) IN GENERAL.—Subchapter C of chapter 68 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 6752. PRELIMINARY NOTICE AND RIGHT OF REVIEW FOR COVERED PENALTIES.

"(a) NOTICE.—

"(1) IN GENERAL.—No covered penalty shall be assessed unless the Secretary provides a notice to the taxpayer in writing by mail to an address as determined under section 6212(b) that contains the following information:

"(A) The covered penalty proposed to be assessed.

"(B) The taxable years or periods involved.

"(C) The basis for the proposed penalty.

"(D) Information about the right of the taxpayer to request review as provided in subsection (b).

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any covered penalty by at least 60 days (120 days in the case of a notice addressed to a taxpayer outside the United States).

"(b) RIGHT TO A REVIEW.—Within 60 days (120 days in the case of a notice sent to a taxpayer outside the United States) of the mailing of the notice described in subsection (a), the taxpayer may request a review of the proposed penalty by the Internal Revenue Service Independent Office of Appeals.

“(c) SUSPENSION OF ASSESSMENT AND COLLECTION.—

“(1) IN GENERAL.—A covered penalty may not be assessed, demanded, or collected before—

“(A) the expiration of the period provided under subsection (b), or

“(B) in any case in which the taxpayer requests a review under subsection (b), the date a final determination is issued in such review.

“(2) STATUTE OF LIMITATIONS.—If a notice described in subsection (a) with respect to any covered penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the running of such period shall be suspended for the period during which assessment is prohibited under this section and for 30 days thereafter.

“(d) COVERED PENALTY.—For purposes of this section, the term ‘covered penalty’ means any penalty imposed under section 6038(b)(1), 6038A(d)(1), 6038B(c), 6038C(c), 6038D(d)(1), 6039F(c)(1)(B), or 6677.

"(e) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including regulations or other guidance relating to—

"(1) procedures for issuing notices under subsection (a),

"(2) the time and manner for presenting appropriate defenses under subsection (b)(2), and

"(3) establishing simplified reviews for cases in which the penalty amount at issue does not exceed a designated dollar threshold.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 68 of such Code is amended by adding at the end the following new item:

"Sec. 6752. Preliminary notice and right of review for covered penalties.".

(c) INTERPRETIVE RULES.—

(1) TAXPAYER RIGHTS.—Nothing in the amendments made by this section shall be construed to create any limitation on the rights of a taxpayer—

(A) under subchapter C or D of chapter 64 of the Internal Revenue Code of 1986, or

(B) to pursue refund litigation with respect to the assessment or imposition of any penalty imposed under such Code.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the treatment of any covered penalty (as defined in section 6752 of the Internal Revenue Code of 1986, as added by this section) before the date of the enactment of this Act.

SEC. 3. REPEAL OF DUE DATE REQUIREMENTS FOR CERTAIN INFORMATION RETURNS RELATING TO FOREIGN TRUSTS.

(a) IN GENERAL.—Section 2006(b) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 is amended by striking paragraphs (9) and (10).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns for taxable years beginning after December 31, 2026.