

the New York delegation take great pride in working together not only what we think is in the interests of our great State, but certainly of our wonderful country. We welcome you to the delegation, we welcome you to the Congress. We will be working with you for better appropriations, better support for our State, and a better America.

OPENING REMARKS OF THE HONORABLE VITO FOSSELLA

(Mr. FOSSELLA asked and was given permission to address the House for 1 minute.)

Mr. FOSSELLA. Mr. Speaker, this is truly perhaps the greatest honor that could be bestowed upon anyone. The fact that the great people of Brooklyn and Staten Island have given me the honor and the privilege and the opportunity to serve them in the U.S. House of Representatives is something that could not be eclipsed as a public servant.

On a personal note, let me thank from the bottom of my heart my lovely wife Mary Pat; my mother and father, Beth and Vito; and all my friends and family who made this journey down to Washington to share this special day with me. My son, the essence of our being, is not here with us, Dylan, but in absentia. We have our new child to be, my wife was expecting our second child yesterday, and she said that if I deliver, she will deliver. We are waiting.

In conclusion, not everyone voted for me yesterday, but to the people of Brooklyn and Staten Island and throughout this great, great country, the best in the history of the world, let me say that I will never break my covenant with them to represent every member of my congressional district and to fight for what I believe in, fight for this great country, fight for the rights and fight for freedom for all of us. Thank you very, very much. This is a tremendous honor.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1997

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 303 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 303

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, modified by the amendments printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. All points of order against the bill, as amended,

are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. DREIER. Mr. Speaker, this rule makes in order H.R. 2676, the IRS Restructuring and Reform Act of 1997, under a closed rule providing for 2 hours of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule provides that the amendment in the nature of a substitute recommended by the House Committee on Ways and Means, as modified by the noncontroversial amendments printed in the report to accompany this rule, be considered as adopted.

The first amendment simply clarifies the authorization for low-income taxpayer clinics and the salaries of members of the IRS Oversight Board to address Budget Act violations.

The second amendment clarifies that IRS management and employees may address any flexibility issues in a demonstration project.

The third amendment is a Rules Committee substitute making a number of clarifying and technical changes to section 422 relating to the Joint Committee on Taxation's preparation of a tax complexity analysis.

The fourth amendment adds the text of H.R. 2645, the Tax Technical Corrections Act of 1997, which makes bipartisan and noncontroversial corrections to reflect the intent of the Taxpayer Relief Act of 1997.

Mr. Speaker, I want to applaud the gentleman from Texas [Mr. ARCHER] and the original sponsors of this bipartisan IRS reform bill, the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN]. Thanks to their tremendous skill and determination in moving this historic bill forward, we are about to end once and for all some of the most egregious and abusive practices of the Internal Revenue Service.

I also want to commend the gentleman from Ohio [Mr. PORTMAN] for his efforts as cochairman of the bipartisan National Commission on Restructuring the Internal Revenue Service. The Commission conducted a yearlong

audit of the IRS and found a troubled agency that wastes billions of dollars in resources and lacks a culture of customer service. The audit also revealed an agency that is fraught with management, governance and oversight problems and is unaccountable to Congress and the American people.

These problems were further illustrated during 3 days of Senate Finance Committee hearings in September, which revealed an out-of-control agency that intentionally engages in unnecessary and sometimes illegal tactics to harass middle-income taxpayers who have limited due process rights.

If enacted, H.R. 2676 will bring about the first comprehensive reform of the IRS in four decades. It will make the IRS more user-friendly, among other things, establishing an independent governing board and shifting the burden of proof from the taxpayer to the IRS in disputes that reach Tax Court.

These reforms will make the IRS more accountable to the American people. They will enhance the fairness of the tax collection process by giving the taxpayer the benefit of the doubt when he or she has cooperated with the IRS and has documented evidence of compliance.

These reforms will not solve the more intractable problems brought on by a complicated and inefficient Tax Code itself. The solutions to those problems require comprehensive reform of the Internal Revenue Code, which I hope very much the House will address next year. But the reforms contained in H.R. 2676 will go a long way toward protecting the rights of taxpayers, making the IRS more accountable, and restoring public confidence in the way the IRS enforces our tax laws.

Mr. Speaker, I urge my colleagues to support this very fair and balanced rule, and I urge strong support, bipartisan support, of this bill.

Mr. Speaker, I include the following extraneous material for the RECORD:

EXPLANATION OF RULES COMMITTEE SUBSTITUTE TO SECTION 422 OF H.R. 2676

As reported by the House Committee on Ways and Means, Section 422 of H.R. 2676 requires the Joint Committee on Taxation to provide a "Tax Complexity Analysis" for legislation reported by the House Committee on Ways and Means and the Senate Committee on Finance and all conference reports that would amend the Internal Revenue Code. The analysis would identify those provisions in a bill or conference report that the staff of the Joint Committee on Taxation determines would add significant complexity or simplification to the tax laws. If the report accompanying such legislation does not include a Tax Complexity Analysis, the legislation would be subject to a point of order in the House and Senate.

The Rules Committee substitute makes a number of clarifying and technical changes to Section 422.

For purposes of the requirement that the Joint Committee on Taxation provide a "Tax Complexity Analysis," the term "legislation" is further defined as "bills or joint resolutions" reported by the House Committee on Ways and Means, the Senate Committee on Finance or a committee of conference.

For purposes of compliance with Section 422, the Committee involved shall either include the Tax Complexity Analysis in the

committee report or cause it to be printed in the Congressional Record prior to consideration of the legislation in the House and Senate.

References to "the staff" of the Joint Committee on Taxation are removed.

Tax Complexity Analysis is defined as "a report which is prepared by the Joint Committee on Taxation and which identifies the provisions of the legislation adding significant complexity or providing significant simplification (as determined by the Joint Committee on Taxation) and includes the basis for such determination."

Language containing the point of order in the House of Representatives with respect to legislation reported by the Committee on Ways and Means and by a committee of conference is stricken from Section 8024 of the Internal Revenue Code and inserted in the rules of the House of Representatives. Specifically:

Clause 2(l) of House rule XI is amended to require the report of the Committee on Ways and Means on any bill or joint resolution containing any provision amending the Internal Revenue Code of 1986 to contain a Tax Complexity Analysis unless the Committee causes to have such Analysis printed in the Congressional Record prior to the consideration of the bill or joint resolution; and

House rule XXVIII is amended to prohibit consideration of a conference report which contains any provision amending the Internal Revenue Code unless the accompanying joint statement of managers contains a Tax Complexity Analysis, unless such Analysis is printed in the Congressional Record prior to the consideration of the report.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 28, 1997.

Hon. BILL ARCHER,

*Chairman, Committee on Ways and Means,
Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing concerning H.R. 2676, The Internal Revenue Service Restructuring and Reform Act of 1997, which your committee ordered reported on October 22 by a vote of 33-4.

This legislation contains provisions in Title IV, Congressional Accountability for the Internal Revenue Service, which fall within the jurisdiction of the Committee on Rules.

The Committee on Rules does not intend to consider this bill as a matter of original jurisdiction. It is the intention of the Committee to address several concerns with the proposed language in Title IV during the Rules Committee's consideration of an appropriate rule for this legislation.

I reserve jurisdiction of the Committee on Rules over all bills relating to the rules, joint rules, and the order of business of the House. It would also be my intention to be represented on the conference committee on this bill. Thank you for your consideration.

Sincerely,

GERALD B. SOLOMON,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997, and this rule which provides for its consideration. The rule is closed, but because this is vitally important legislation and is supported by both Democrats and Republicans, liberals, moderates and conservatives, I believe the House

should proceed with the consideration of this legislation in order to speed it on its way to the President's desk.

Mr. Speaker, in my nearly 19 years in Congress, I have received many, many complaints from my constituents regarding their difficulties in resolving disputes with the Internal Revenue Service. The report of the Portman-Kerrey Commission, which detailed abuses and mismanagement within the agency coupled with recent congressional hearings which revealed very publicly a number of disturbing abuses perpetrated—perpetrated by the IRS against taxpayers have provided ample evidence that the many complaints we have all heard are based on real problems for real people.

Mr. Speaker, while the IRS must fulfill its mission of administering our tax laws and enforcing collection, the IRS cannot be permitted to abuse the rights of American taxpayers. H.R. 2676 will go a long way toward correcting abuses and ensuring that the agency is restructured in such a way that honest taxpayers need not fear undue harassment and reprisals from the IRS.

This legislation contains several provisions which will substantially strengthen taxpayers' rights in dealing with the IRS. This bill makes it more difficult for the IRS to hold a spouse responsible for mistakes made on taxpayer returns by the other spouse. It allows taxpayers to sue the Federal Government for up to \$100,000 in civil damages caused by IRS employees who negligently disregard tax laws, and in those cases which come before the U.S. Tax Court, places the burden of proof on the IRS rather than on the taxpayer.

□ 1115

These are but a small part of this bill but important reforms that will help all honest and law-abiding taxpayers.

Mr. Speaker, the bill also establishes an oversight board for the IRS which will bring private sector expertise to the management and administration of the agency. The board will not have any responsibility for or authority over the development and formulation of Federal tax policy but would, instead, work to ensure that the agency works for the benefit of taxpayers and the country as a whole.

I am disappointed, however, that the Committee on Rules did not provide for the consideration of an amendment that I, along with my colleague from Pennsylvania, Mr. GEKAS, sought to have made part of H.R. 2676.

Our amendment seeks to correct a provision in current law which requires that local governments file W-2 forms for poll workers in spite of the fact that these workers are, for the most part, retired persons who earn only a hundred dollars or so for their work on election day. This requirement places a heavy financial and administrative burden on localities. I would hope that in the not too distant future the Congress will fix what is an onerous burden for local government.

Mr. Speaker, as a cosponsor of H.R. 2676, I am delighted that the Congress is taking action on this matter prior to our adjournment for the year. I encourage my colleagues to support the rule in order to move quickly to the consideration of this landmark legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL [Mr. GOSS], my very good friend and the distinguished chairman of the Subcommittee on Budget and Legislative Process and the Permanent Select Committee on Intelligence.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank my distinguished friend from the greater metropolitan downtown area of Claremont, CA, the vice chairman of the Committee on Rules and leader of many good causes in this House, for yielding me this time, and I rise in support of his rule. It is a closed rule, but it is a good rule; it is time tested for debating tax-related bills under the jurisdiction of the Committee on Ways and Means.

For years, millions of Americans have known what we are today finally acknowledging here on the floor of the House, that the IRS is inefficient, it is unaccountable, and it is often downright abusive for the very people who pay the salaries, the American taxpayer. Even the most routine audit can strike fear in the hearts of Americans, and even more disturbing is the belief by many Americans that the IRS targets based on partisan political motive.

The facts serve to underscore their anxiety. In 1993, the IRS gave the wrong answer to taxpayer questions millions of times. Last year, only one in five calls to the IRS customer hotline apparently got through, and even then we were not sure the answer was right.

Today we are taking the first concrete steps to clean up this agency. Congressional hearings have demonstrated clearly and poignantly the need for structural reform at the IRS, and we are acting. Built on the recommendations of the bipartisan commission chaired by the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN], H.R. 2676 will create mechanisms to ensure that the IRS serves Americans with the respect and dignity that we all deserve.

For starters, the bill creates an independent oversight board composed of private citizens. The board will place a needed check on the excesses of the agency as well as restore accountability for the American taxpayer. By changing the burden of proof in tax court proceedings, H.R. 2676 will make sure that law-abiding taxpayers are guaranteed the same basic rights offered in other judicial proceedings. They are still innocent until proven guilty, which is our way.

After weeks of stops and starts, hesitation, rhetoric, the Clinton administration has finally decided to join our effort in these first steps. They recognize this is a good effort. I welcome the President's conversion, and I urge my colleagues to support this fair rule and this important bipartisan bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I want to thank my friend from Texas [Mr. FROST] for yielding me this time.

I want to compliment the Committee on Rules for bringing out this rule, and I hope that it will receive strong support by both sides of the aisle.

During the consideration of the underlying bill by the Committee on Ways and Means, there was only one amendment that was not approved by the committee that was offered. I want to thank the Committee on Rules for dealing with that amendment by the gentleman from California [Mr. STARK] in the self-executing rule that adopts the amendment. So we have really taken care of all the concerns of Members that have offered changes.

The reason why this rule and the underlying bill will receive strong bipartisan support is that it was developed by the National Commission on Restructuring the IRS, and it was adopted in a bipartisan manner in that commission.

I particularly want to compliment our colleague, the gentleman from Ohio [Mr. PORTMAN], for the work that he did in leading that commission and keeping us focused on dealing with the problems of the IRS so that we could bring the bill to the floor in a way that it could receive strong support by all Members of this House.

I also want to compliment the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means, and the gentleman from New York [Mr. RANGEL], the ranking member. The Committee on Ways and Means took a good bill and made it better, and we worked in a bipartisan way to do that.

By adopting this rule, this House has the opportunity to pass today a bill that will deal with the problems at the IRS before the next tax season. I hope that what we are doing here in this House, the other body will follow suit so that we can pass meaningful reform of the IRS now to help our taxpayers before April of next year.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Morris, IL [Mr. WELLER], my very good friend, a member of the Committee on Ways and Means.

(Mr. WELLER asked and was given permission to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, let me begin as I rise in support of this rule and this bill to commend the chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], and the ranking member, the

gentleman from New York [Mr. RANGEL], for management of this bill, but particularly I want to commend the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN] for their leadership on managing this bill as well because this legislation is such an important victory for middle class taxpayers.

There is no agency in more need of reform than the Internal Revenue Service, and that is why we all stand here today in support of very important legislation, legislation that is really a long time coming, but legislation that is a big victory for the middle class.

There are two very, very important changes, fundamental changes, that are included in this legislation I would like to note, and probably the most important one is the one which shifts the burden of proof off the backs of the taxpayer and on to the IRS. There is no greater complaint that I hear back home in Illinois than, when someone is audited by the IRS, they are treated as guilty until proven innocent, whereas if someone is in a criminal court, they are innocent until proven guilty. This legislation gives the taxpayers, those who play by the rules, work hard, and pay their taxes on time, the same protections with the IRS that one enjoys in the courtroom. That is a big victory for the middle class.

And during this process, we also learned about some of the impact of what the IRS has done in the past and how they treat human beings. One of the issues that we also address in this is a particularly important issue to those that we call the unlucky and innocent spouse.

We discovered in many cases that someone who is a deadbeat parent is also a deadbeat taxpayer. In a case where you have a deadbeat dad who is not paying his child support and not paying his taxes, who do my colleagues think the IRS went after? That poor, unlucky, innocent working mom with the kids whose husband is not paying the child support. And the IRS showed up wanting to collect his taxes from her. This legislation puts in place more protections to protect the unlucky, innocent spouse.

These are two important victories, shifting the burden of proof so that someone is innocent until proven guilty with the IRS, and also another important victory is protecting the unlucky and innocent spouse.

My colleagues, this legislation deserves bipartisan support, and it is a big victory.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today is a day that I am very glad to see come, and in a way I am also sad. For 10 years I have worked to shift the burden of proof in the civil tax case, and I

guess I am glad because today we finally get a chance to see that on the House floor.

What I am sad about, to be quite honest, is I have offered this bill for 10 years and could never get a hearing from my Democrat colleagues. I believe today's legislation will probably continue to keep a majority in this House for Republicans. And I know Democrats are saying, why does Mr. TRAFICANT say that? I think the Democrat Party is going to have to deal with the substantive issues and problems of our country if we want to take the House back.

I want to thank the Republican Party for including the Traficant provision. I want to thank the gentleman from Texas [Mr. ARCHER] and the gentleman from Ohio [Mr. PORTMAN], and I want to thank the gentleman from New York [Mr. RANGEL] and the gentleman from Maryland [Mr. CARDIN]. In all fairness, they were not in that position to make those decisions years ago, and maybe we would have had more success had we had it.

But I think there are some other people that have to be thanked. My strategy was to get the American people to support that legislation. The White House never wanted it. Quite frankly, no one wanted it. And now 98 percent of the American people support the burden of proof shift in a civil tax case, the No. 1 supported bill in the Congress. I want to thank Rush Limbaugh, I want to thank Michael Reagan, I want to thank Mary Matalin, I want to thank Blanquita Cullum, I want to thank Jane Wallace and Bay Buchanan and Pat Buchanan. I want to thank Ron Verb and Ron Novak. I want to thank Jeff and Flash Talk Show out of Cleveland and the great work they did in the Midwest. I want to thank Jack Anderson, George Will, the gentleman from New York [Mr. SOLOMON], Joseph Sobran. I want to thank everyone in America who helped to bring this day about. And I want to again commend the Republican Party; they have done the right thing.

Now just let me say this, that I do not know how much time I have left, but years ago a family in North Carolina by the name of Counsel had a problem, and Alex Counsel actually took his life, and when he did so, he left a message in the form of a suicide note to his wife. He said, Kay, I have taken my life in order to provide money for you and our family to fight the IRS, which is out of control and has taken liens against our property illegally. I have made the only decision I can, Kay. Take the insurance money and save our good name.

My colleagues, what has happened to us? How did we allow the greatest tenet of America's freedom, innocent until proven guilty, the accuser carries the burden, to be shifted like this in a court of law? I mean, what has happened to us?

Then you have IRS agents testifying behind screens with voice scramblers

because they, too, are afraid of the IRS.

Now I see some of the Democrat staffers laughing. Man, we have laughed on this one for sure.

It is the right thing to do. I support this rule, I support this bill, and I want to compliment Chairman BILL ARCHER, because without the gentleman from Texas [Mr. ARCHER] standing up to both the White House and the other body, my provision still is not free and clear, and I predict the other body will challenge it, and I predict the White House will come out against it, and now the IRS is putting the spin: It is not really going to do that much.

Well, just years ago they said it was going to bust the bank and it was going to make tax protesters and tax cheats win out. I think the IRS has given us a lot of lies over the years, and I believe this bill will help to straighten that out.

So I am sad to see that it is not the Democrat Party that has brought the bill, but I commend the Republicans.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Let me first say that I want to congratulate my friend from Ohio. I remember very well when he took me to the well and had me sign a discharge petition to release this burden of proof legislation, and it has taken a long time getting to this point. I remember he told me that I might be in trouble for signing that discharge petition when he stood over me as I did it, but I still followed his directive.

Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, NY [Mr. SOLOMON], my friend and the chairman of the Committee on Rules.

□ 1130

Mr. SOLOMON. I thank the gentleman from Claremont, CA [Mr. DREIER], the vice chairman of the Committee on Rules, for giving me the time to request unanimous consent to revise and extend my remarks and to praise the gentleman from Texas [Mr. ARCHER]; the gentleman from Ohio [Mr. PORTMAN]; the gentleman from California [Mr. DREIER]; and especially the gentleman from Ohio [Mr. TRAFICANT]. Without him, this legislation never would have reached this floor, and I commend him for it.

Mr. Speaker, I thank the gentleman from California for yielding me the time.

Mr. Speaker, a Washington Post magazine spoof in December of 1991 on the role of the IRS succinctly characterizes many Americans' view of the IRS today. It read, "In a sweeping post-coup reform move, Gorbachev abolished the Communist Party and fired thousands of entrenched hard-line Kremlin bureaucrats, all of whom were immediately hired by the Internal Revenue Service."

Now we know that IRS employees are not former Kremlin agents but the characterization of IRS agents as part of an American Gestapo contingent strikes a nerve among the American people.

Many taxpayers are forced to live in fear that making a minor error in the myriad tax

forms and requirements they are faced with each year will result in a demanding visit by an IRS agent or even a severe punishment. Today the IRS is a bureaucracy out of control because of the lack of proper checks and balances, which are pillars of the American system of government.

In recognition of this out of control bureaucracy and the growing cries for fundamental reform by the American people, the National Commission on Restructuring the IRS, chaired by Representative PORTMAN and Senator KERREY of Nebraska was established. Its year-long mission was to make recommendations for modernizing and improving its efficiency and taxpayer services. On June 25, 1997, the Commission issued a comprehensive report making recommendations relating to the executive branch governance and management of the IRS, congressional oversight of the IRS, personnel flexibility, customer service and compliance, technology modernization, electronic filing, tax law simplification, taxpayer rights, and financial accountability.

These extensive recommendations provided the foundation for the legislation this House will be considering today.

H.R. 2676, the IRS Restructuring and Reform Act, introduced by Representatives ARCHER, PORTMAN, and CARDIN, builds on the commission's recommendations to form a comprehensive IRS reform package.

For example, the bill establishes the Internal Revenue Service Oversight Board, within the Treasury Department, whose general responsibilities are to oversee the Internal Revenue Service in its administration, management, conduct, direction and supervision of the execution and application of our country's internal revenue laws.

The bill also makes it unlawful for the President, Vice President, their employees and all Cabinet heads to request that any officer or employee of the IRS conduct or terminate an audit or begin or terminate an investigation with respect to any particular taxpayers.

Perhaps even more important, this reform package shifts the burden of proof in any court tax proceeding from the taxpayer to the Secretary of the Treasury. This bill will greatly increase the accountability and efficiency of the IRS and will help to restore the confidence and faith of the American people in its government.

Mr. Speaker, I would also be remiss if I did not commend our colleagues Chairman BILL ARCHER and Representative ROB PORTMAN of the Ways and Means Committee for their steadfast and thorough efforts in producing this legislation.

The bipartisan work of the commission combined with the bipartisan efforts of the Ways and Means Committee have produced meaningful reform that will be to the benefit of every American taxpayer.

Mr. Speaker, the Constitution grants this Congress the authority to raise the revenue necessary to run the Federal Government. While I would contend that this Congress has a long way to go toward reforming our overall tax system, this first reform effort in four decades of the agency charged with collecting that revenue, is a giant leap in responsibility fulfilling this constitutional duty.

For these reasons, I urge all of my colleagues to support this fair rule and to support this historic legislation.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Omaha,

NE [Mr. CHRISTENSEN], the future Governor.

Mr. CHRISTENSEN. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, this is a great day. It is a great day for all of us, but it is a great day for the gentleman from Ohio [Mr. TRAFICANT]. There has not been anybody who has been in the well fighting for this day longer, more ardently, than he. It is hard to believe why some staffers over there on the Democrat side are scowling at the gentleman and have their arms crossed. They just do not get it. They do not understand what the IRS has done to the taxpayer.

The gentleman's provision on taking the burden of proof off the taxpayer is going to turn what has been a lopsided situation for a number of years and turn it back in favor of the taxpayer.

In America, we have always known the principle that one is presumed innocent until proven guilty. But in the IRS, as long as I have known about it and as long as I have heard the gentleman from Ohio [Mr. TRAFICANT] talking about it, one is guilty, and one has to prove one's innocence. His provision is going to change that.

So I thank the gentleman from Ohio for his fight, and I thank him for everything that he is doing. Nebraskans thank the gentleman, and western Nebraskans thank the gentleman. As I have talked to them a number of times, they wanted the gentleman from Ohio [Mr. TRAFICANT] to come out to Nebraska and talk about IRS reform and talk about changing the way things are done in Washington.

Mr. Speaker, the Department of Treasury could have fixed this, but they never got it done, they never attempted it. But the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Nebraska [Mr. KERREY], on the Senate side, put this legislation together with the help of my chairman, the gentleman from Texas [Mr. ARCHER].

This provision also as an authority called the oversight board that is going to be having some real citizens that are nongovernmental citizens putting their expertise to work. I believe that this board will provide some commonsense oversight that is much needed in this area.

The IRS has got to do a better job of providing fair tax treatment that it has been commissioned to do. This bill is a small step in the right direction until we pull out the IRS by its roots, as my chairman has hoped to do for a very long time, and move to either a sales tax or a flat tax approach. This is an intermediary step; it is a step in the right direction. I thank the gentleman from New York for assisting us with this. He has been a great support and we thank him for his help.

Mr. Speaker, I rise in strong support today for H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997.

Some say the three most frightening letters of the alphabet are IRS—and for good reason.

The IRS is one of the most bureaucratic, outdated, and inefficient government agencies and it touches every hard-working, tax-paying American.

The IRS Restructuring and Reform Act would help fix what ails the IRS.

In America, people are presumed innocent until proven guilty. In the IRS, it is the other way around—the taxpayer bears the burden of proving himself or herself innocent.

This bill shifts the burden of proof in court proceedings from the taxpayer to the IRS.

This bill also creates an Independent Oversight Board that includes non-governmental experts who can bring new thinking and a more tax-payer oriented culture to the IRS.

If the Department of Treasury could have fixed the IRS, they would have done so already.

This oversight board will have real power and authority—it won't just be another governmental advisory board.

Those of us committed to easing the burden on taxpayers will continue to work to replace the income tax with a more simple and fair Tax Code.

But as long as we have an income tax, the IRS must do a better job of providing fair treatment and efficient customer service to the Nation's taxpayers. This bill is a step in that direction.

I urge my fellow colleagues to cast their vote for a more fair and efficient IRS for America's taxpayers. Thank you Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I would like to thank my colleague from Texas and a member of the Committee on Rules for allowing me to speak in support of not only the rule today, but also the IRS reform bill.

As a cosponsor of the bill of the gentleman from Ohio [Mr. TRAFICANT] earlier, I support one of the issues particularly that is in this bill, where the reform would allow for the burden of proof to be placed on the IRS instead of on the taxpayer, but I also want to compliment both the Democratic Members and the Republican Members and my colleague the gentleman from Houston, Texas [Mr. ARCHER], on the bill. I know from the Republican side, we hear this is a small step, but let me tell my colleagues, this is a much bigger step than it may be considered, because in my two terms here before, we did not get to this point, even during the last session of Congress, to get to the point where we can really talk about an IRS reform bill.

Mr. Speaker, it is a bipartisan bill. I am glad the President decided to support it, but there are a number of Democrats who supported the issue long before the Committee on Ways and Means brought it up. If one is mistreated by a government agency, whether it be the IRS or HUD or anyone else, or EPA, it is not a Democratic or Republican problem, it is a problem that we all need to address, and that is why I think it is important that this bill is a bipartisan bill today. Again, I congratulate the people who

put it together on the Committee on Ways and Means.

I support the change that puts the burden of proof on the IRS, in tax disputes that come before the IRS tax court. People's lives have been turned into a living hell by a system that assumed they were guilty as charged and before they actually knew what they were guilty of. Again, I think we understand that that burden of proof is so important because if a person accused of a criminal crime in our country is innocent until proven guilty, we need to do that at least in the tax courts of our land.

I am also pleased that the President will continue to appoint the IRS Commissioner and to remove the Commissioner at will. As we increase the power and the influence of the Independent Advisory Board, it is important to make sure the final authority rests with an elected office; and whether on the Republican side one agrees with this President or not, it is important that an elected official have that authority, because the buck stops there.

Taxpayers also receive other rights in the bill, such as innocent spouses will no longer be held responsible by mistakes made by the other spouse on tax returns. That is why I encourage my colleagues to vote for the bill and the rule.

Mr. Speaker, I rise in support of the IRS reform bill.

Mr. Speaker, I believe the bill we have before us will bring much-needed reform to the Internal Revenue Service and Relief to those Americans who are audited to be treated fairly.

As a long-time sponsor of the bill by Mr. TRAFICANT, I support the change that will place the burden of proof on the IRS in most tax disputes that will come before the IRS Tax Court. As the recent congressional hearings demonstrated, people's lives have turned into a living hell by a system that assumed they were guilty as charged.

I am also pleased the President will retain the ability to appoint the IRS Commissioner and to remove the Commissioner at will. As we increase the power and influence of the independent advisory board, it is important to place the final authority over the performance of the Commissioner with the President. The buck stops there.

Taxpayers will also receive other rights on this bill: innocent spouses will no longer be held responsible for mistakes made by the other spouse on a tax return. And taxpayers will be able to sue the Government for civil damages caused by IRS employees who negligently disregard laws.

I urge support for this bill.

Mr. FROST. Mr. Speaker, if the gentleman has no other speakers, then we urge adoption of the rule and adoption of the bill, and yield back the balance of our time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to say that this is our great opportunity to finally deal with this issue of the burden of proof, which has been a long time in coming. The leadership of the gentleman from Texas [Mr. ARCHER]

and the gentleman from Ohio [Mr. PORTMAN] and others have made this day possible, and I am very happy that we have seen our colleagues on the other side of the aisle come, not quite kicking and screaming, but they have now come enthusiastically in support of what I think is very good public policy.

With that, I urge support of the previous question, support of the rule and support of the bill that will come from my friends on the Committee on Ways and Means.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1145

Mr. BUNNING. Mr. Speaker, pursuant to House Resolution 303, I call up the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SUNUNU). Pursuant to House Resolution 303, the amendment in the nature of a substitute printed in the bill, modified by the amendments printed in House Report 105-380, is adopted.

The text of the committee amendment in the nature of a substitute, as modified by the amendments printed in House Report 105-380, is as follows:

H.R. 2676

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Internal Revenue Service Restructuring and Reform Act of 1997”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **TABLE OF CONTENTS.**—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

Sec. 101. Internal Revenue Service Oversight Board.

Sec. 102. Commissioner of Internal Revenue; other officials.

Sec. 103. Other personnel.

Sec. 104. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle B—Personnel Flexibilities

Sec. 111. Personnel flexibilities.

TITLE II—ELECTRONIC FILING

Sec. 201. Electronic filing of tax and information returns.

Sec. 202. Due date for certain information returns filed electronically.

Sec. 203. Paperless electronic filing.

Sec. 204. Return-free tax system.

Sec. 205. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

Sec. 300. Short title.

Subtitle A—Burden of Proof

Sec. 301. Burden of proof.

Subtitle B—Proceedings by Taxpayers

Sec. 311. Expansion of authority to award costs and certain fees.

Sec. 312. Civil damages for negligence in collection actions.

Sec. 313. Increase in size of cases permitted on small case calendar.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec. 321. Spouse relieved in whole or in part of liability in certain cases.

Sec. 322. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Provisions Relating to Interest

Sec. 331. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.

Sec. 332. Increase in overpayment rate payable to taxpayers other than corporations.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

Sec. 341. Privilege of confidentiality extended to taxpayer's dealings with non-attorneys authorized to practice before Internal Revenue Service.

Sec. 342. Expansion of authority to issue taxpayer assistance orders.

Sec. 343. Limitation on financial status audit techniques.

Sec. 344. Limitation on authority to require production of computer source code.

Sec. 345. Procedures relating to extensions of statute of limitations by agreement.

Sec. 346. Offers-in-compromise.

Sec. 347. Notice of deficiency to specify deadlines for filing Tax Court petition.

Sec. 348. Refund or credit of overpayments before final determination.

Sec. 349. Threat of audit prohibited to coerce Tip Reporting Alternative Commitment Agreements.

Subtitle F—Disclosures to Taxpayers

Sec. 351. Explanation of joint and several liability.

Sec. 352. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.

Sec. 353. Disclosure of criteria for examination selection.

Sec. 354. Explanations of appeals and collection process.

Subtitle G—Low Income Taxpayer Clinics

Sec. 361. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 371. Actions for refund with respect to certain estates which have elected the installment method of payment.

Sec. 372. Cataloging complaints.

Sec. 373. Archive of records of Internal Revenue Service.

Sec. 374. Payment of taxes.

Sec. 375. Clarification of authority of Secretary relating to the making of elections.

Sec. 376. Limitation on penalty on individual's failure to pay for months during period of installment agreement.

Subtitle I—Studies

Sec. 381. Penalty administration.

Sec. 382. Confidentiality of tax return information.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

Sec. 401. Expansion of duties of the Joint Committee on Taxation.

Sec. 402. Coordinated oversight reports.

Subtitle B—Budget

Sec. 411. Funding for century date change.

Sec. 412. Financial Management Advisory Group.

Subtitle C—Tax Law Complexity

Sec. 421. Role of the Internal Revenue Service.

Sec. 422. Tax complexity analysis.

TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION

Sec. 501. Clarification of deduction for deferred compensation.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) **IN GENERAL.**—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

“SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

“(a) **ESTABLISHMENT.**—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the ‘Oversight Board’).

“(b) MEMBERSHIP.—

“(i) **COMPOSITION.**—The Oversight Board shall be composed of 11 members, as follows:

“(A) 8 members shall be individuals who are not Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

“(B) 1 member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

“(C) 1 member shall be the Commissioner of Internal Revenue.

“(D) 1 member shall be an individual who is a representative of an organization that represents a substantial number of Internal Revenue Service employees and who is appointed by the President, by and with the advice and consent of the Senate.

“(2) QUALIFICATIONS AND TERMS.—

“(A) **QUALIFICATIONS.**—Members of the Oversight Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in 1 or more of the following areas:

“(i) Management of large service organizations.

“(ii) Customer service.

“(iii) Federal tax laws, including tax administration and compliance.

“(iv) Information technology.

“(v) Organization development.

“(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

“(B) **TERMS.**—Each member who is described in paragraph (1)(A) or (D) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

“(i) 1 member shall be appointed for a term of 1 year,

“(ii) 1 member shall be appointed for a term of 2 years,

“(iii) 2 members shall be appointed for a term of 3 years, and

“(iv) 2 members shall be appointed for a term of 4 years.

Such terms shall begin on the date of appointment.

“(C) **REAPPOINTMENT.**—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Oversight Board.

“(D) **VACANCY.**—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

“(E) **SPECIAL GOVERNMENT EMPLOYEES.**—During the entire period that an individual appointed under paragraph (1)(A) is a member of the Oversight Board, such individual shall be treated as—

“(i) serving as a special government employee (as defined in section 202 of title 18, United States Code) and as described in section 207(c)(2) of such title 18, and

“(ii) serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act.

“(3) **QUORUM.**—6 members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

“(4) REMOVAL.—

“(A) **IN GENERAL.**—Any member of the Oversight Board may be removed at the will of the President.

“(B) **SECRETARY AND COMMISSIONER.**—An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of employment.

“(C) **REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.**—The member described in paragraph (1)(D) shall be removed upon termination of employment, membership, or other affiliation with the organization described in such paragraph.

“(5) CLAIMS.—

“(A) **IN GENERAL.**—Members of the Oversight Board who are described in paragraph (1)(A) or (D) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Oversight Board.

“(B) **EFFECT ON OTHER LAW.**—This paragraph shall not be construed—

“(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

“(ii) to affect any other right or remedy against the United States under applicable law, or

“(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

“(C) GENERAL RESPONSIBILITIES.—

“(1) **IN GENERAL.**—The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

“(2) **EXCEPTIONS.**—The Oversight Board shall have no responsibilities or authority with respect to—

“(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

“(B) law enforcement activities of the Internal Revenue Service, including compliance activities

such as criminal investigations, examinations, and collection activities, or

“(C) specific procurement activities of the Internal Revenue Service.

“(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO OVERSIGHT BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Oversight Board described in subsection (b)(1)(A) or (D). Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Oversight Board so described to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

“(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

“(I) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

“(A) mission and objectives, and standards of performance relative to either, and

“(B) annual and long-range strategic plans.

“(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

“(A) plans for modernization of the tax system,

“(B) plans for outsourcing or managed competition, and

“(C) plans for training and education.

“(3) MANAGEMENT.—To—

“(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

“(B) review the Commissioner's selection, evaluation, and compensation of senior managers, and

“(C) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service.

“(4) BUDGET.—To—

“(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

“(B) submit such budget request to the Secretary of the Treasury, and

“(C) ensure that the budget request supports the annual and long-range strategic plans.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

“(e) BOARD PERSONNEL MATTERS.—

“(I) COMPENSATION OF MEMBERS.—

“(A) IN GENERAL.—Each member of the Oversight Board who is described in subsection (b)(1)(A) shall be compensated at a rate not to exceed \$30,000 per year. All other members of the Oversight Board shall serve without compensation for such service.

“(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate not to exceed \$50,000.

“(2) TRAVEL EXPENSES.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business for purposes of attending meetings of the Oversight Board.

“(3) STAFF.—At the request of the Chairperson of the Oversight Board, the Commissioner shall detail to the Oversight Board such personnel as may be necessary to enable the Oversight Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privilege.

“(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(f) ADMINISTRATIVE MATTERS.—

“(I) CHAIR.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

“(2) COMMITTEES.—The Oversight Board may establish such committees as the Oversight Board determines appropriate.

“(3) MEETINGS.—The Oversight Board shall meet at least once each month and at such other times as the Oversight Board determines appropriate.

“(4) REPORTS.—The Oversight Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.”.

“(b) CONFORMING AMENDMENTS.—

“(I) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

“(A) by striking “or” at the end of paragraph (5),

“(B) by striking the period at the end of paragraph (6) and inserting “, or”, and

“(C) by adding at the end the following new paragraph:

“(7) a member of the Internal Revenue Service Oversight Board.”.

“(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

“Sec. 7802. Internal Revenue Service Oversight Board.”

“(c) EFFECTIVE DATE.—

“(I) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

“(2) NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

SEC. 102. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

“(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

“SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

“(a) COMMISSIONER OF INTERNAL REVENUE.—

“(I) APPOINTMENT.—

“(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. The appointment shall be made without regard to political affiliation or activity.

“(B) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

“(C) REMOVAL.—The Commissioner may be removed at the will of the President.

“(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

“(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

“(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B),

such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, the Committees on Finance, Government Operations, and Appropriations of the Senate, and the Joint Committee on Taxation.

“(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

“(b) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—There is established within the Internal Revenue Service an office to be known as the ‘Office of Employee Plans and Exempt Organizations’ to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies) and other nonqualified deferred compensation arrangements. The Assistant Commissioner shall report annually to the Commissioner with respect to the Assistant Commissioner's responsibilities under this section.

“(c) OFFICE OF TAXPAYER ADVOCATE.—

“(I) IN GENERAL.—

“(A) ESTABLISHMENT.—There is established in the Internal Revenue Service an office to be known as the ‘Office of the Taxpayer Advocate’. Such office shall be under the supervision and direction of an official to be known as the ‘Taxpayer Advocate’ who shall be appointed with the approval of the Oversight Board by the Commissioner of Internal Revenue and shall report directly to the Commissioner. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of Internal Revenue.

“(B) RESTRICTION ON SUBSEQUENT EMPLOYMENT.—An individual who is an officer or employee of the Internal Revenue Service may be appointed as Taxpayer Advocate only if such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the Taxpayer Advocate.

“(2) FUNCTIONS OF OFFICE.—

“(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

“(i) assist taxpayers in resolving problems with the Internal Revenue Service,

“(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

“(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

“(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

“(B) ANNUAL REPORTS.—

“(i) OBJECTIVES.—Not later than June 30 of each calendar year, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

“(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any

such report shall contain full and substantive analysis, in addition to statistical information, and shall—

“(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

“(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

“(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

“(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

“(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

“(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

“(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

“(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

“(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

“(X) in conjunction with the National Director of Appeals, identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

“(XI) include such other information as the Taxpayer Advocate may deem advisable.

“(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the committees described in clauses (i) and (ii) without any prior review or comment from the Oversight Board, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

“(C) OTHER RESPONSIBILITIES.—The Taxpayer Advocate shall—

“(i) monitor the coverage and geographic allocation of problem resolution officers, and

“(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to problem resolution officers.

“(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.”.

(b) CONFORMING AMENDMENTS.—

(i) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

“Sec. 7803. Commissioner of Internal Revenue; other officials.”

(2) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking “7802(b)” and inserting “7803(b)”.

(c) EFFECTIVE DATE.—

(i) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date

of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) Section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.

SEC. 103. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

“SEC. 7804. OTHER PERSONNEL.

“(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

“(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

“(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

“(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

“(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking “section 7803(d)” and inserting “section 7804(c)”.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

“Sec. 7804. Other personnel.”

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

SEC. 104. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

“SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

“(a) PROHIBITION.—It shall be unlawful for any applicable person to request any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

“(b) REPORTING REQUIREMENT.—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Chief Inspector of the Internal Revenue Service.

“(c) EXCEPTIONS.—Subsection (a) shall not apply to—

“(1) any request made to an applicable person by the taxpayer or a representative of the taxpayer and forwarded by such applicable person to the Internal Revenue Service,

“(2) any request by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section, or

“(3) any request by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

“(d) PENALTY.—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

“(e) APPLICABLE PERSON.—For purposes of this section, the term ‘applicable person’ means—

“(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President, and

“(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.”

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

“Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations.”

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

Subtitle B—Personnel Flexibilities

SEC. 111. PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

“Subpart I—Miscellaneous

“CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

“Sec.

“9301. General requirements.

“9302. Flexibilities relating to performance management.

“9303. Staffing flexibilities.

“9304. Flexibilities relating to demonstration projects.

“§9301. General requirements

“(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

“(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

“(2) provisions of this title (outside of this subpart) relating to preference eligibles.

“(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

“(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, or 9304, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

“(2) DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

“(A) need not be a collective bargaining agreement within the meaning of section 7103(8); and

“(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7119.

“(3) INCLUDIBLE MATTERS.—The written agreement may address any flexibilities under section 9302, 9303, or 9304, including any matter proposed to be included in a demonstration project under section 9304.

§9302. Flexibilities relating to performance management

“(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within a year after the date of the enactment of this chapter, establish a performance management system which—

“(1) subject to section 9301(b), shall cover all employees of the Internal Revenue Service other than—

“(A) the members of the Internal Revenue Service Oversight Board;

“(B) the Commissioner of Internal Revenue; and

“(C) the Chief Counsel for the Internal Revenue Service;

“(2) shall maintain individual accountability by—

“(A) establishing standards of performance which—

“(i) shall permit the accurate evaluation of each employee’s performance on the basis of the individual and organizational performance requirements applicable with respect to the evaluation period involved, taking into account individual contributions toward the attainment of any goals or objectives under paragraph (3);

“(ii) shall be communicated to an employee before the start of any period with respect to which the performance of such employee is to be evaluated using such standards; and

“(iii) shall include at least 2 standards of performance, the lowest of which shall denote the retention standard and shall be equivalent to fully successful performance;

“(B) providing for periodic performance evaluations to determine whether employees are meeting all applicable retention standards; and

“(C) using the results of such employee’s performance evaluation as a basis for adjustments in pay and other appropriate personnel actions; and

“(3) shall provide for (A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64-22 (as in effect on July 30, 1997), and taxpayer service surveys, (B) communicating such goals or objectives to employees, and (C) using such goals or objectives to make performance distinctions among employees or groups of employees.

For purposes of this title, performance of an employee during any period in which such employee is subject to standards of performance under paragraph (2) shall be considered to be ‘unacceptable’ if the performance of such employee during such period fails to meet any retention standard.

(b) AWARDS.—

“(1) FOR SUPERIOR ACCOMPLISHMENTS.—In the case of a proposed award based on the efforts of an employee or former employee of the Internal Revenue Service, any approval required under the provisions of section 4502(b) shall be considered to have been granted if the Office of Personnel Management does not disapprove the proposed award within 60 days after receiving the appropriate certification described in such provisions.

“(2) FOR EMPLOYEES WHO REPORT DIRECTLY TO THE COMMISSIONER.—

“(A) IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of

such employee’s annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee’s performance.

“(B) NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to be part of basic pay.

“(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

“(D) ELIGIBLE EMPLOYEES.—Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue shall, for purposes of this paragraph, be determined under regulations which the Commissioner shall prescribe, except that in no event shall more than 8 employees be eligible for a cash award under this paragraph in any calendar year.

“(E) LIMITATION ON COMPENSATION.—For purposes of applying section 5307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting ‘to equal or exceed the annual rate of compensation for the Vice President for such calendar year’ for ‘to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year’.

“(F) APPROVAL REQUIRED.—An award under this paragraph may not be made unless—

“(i) the Commissioner of Internal Revenue certifies to the Office of Personnel Management that such award is warranted; and

“(ii) the Office approves, or does not disapprove, the proposed award within 60 days after the date on which it is so certified.

(3) BASED ON SAVINGS.—

“(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

“(i) specifies minimum levels of service and quality to be maintained while achieving such financial savings; and

“(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

“(B) FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

“(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

(c) OTHER PROVISIONS.—

“(1) NOTICE PROVISIONS.—In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, ‘15 days’ shall be substituted for ‘30 days’.

“(2) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

§9303. Staffing flexibilities

“(a) ELIGIBILITY TO COMPETE FOR A PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—

(1) ELIGIBILITY OF QUALIFIED VETERANS.—

“(A) IN GENERAL.—No veteran described in subparagraph (B) shall be denied the opportunity to compete for an announced vacant competitive service position within the Internal Revenue Service by reason of—

“(i) not having acquired competitive status; or

“(ii) not being an employee of that agency.

“(B) DESCRIPTION.—An individual shall, for purposes of a position for which such individual is applying, be considered a veteran described in this subparagraph if such individual—

“(i) is either a preference eligible, or an individual (other than a preference eligible) who has been separated from the armed forces under honorable conditions after at least 3 years of active service; and

“(ii) meets the minimum qualification requirements for the position sought.

“(2) ELIGIBILITY OF CERTAIN TEMPORARY EMPLOYEES.—

“(A) IN GENERAL.—No temporary employee described in subparagraph (B) shall be denied the opportunity to compete for an announced vacant competitive service position within the Internal Revenue Service by reason of not having acquired competitive status.

“(B) DESCRIPTION.—An individual shall, for purposes of a position for which such individual is applying, be considered a temporary employee described in this subparagraph if—

“(i) such individual is then currently serving as a temporary employee in the Internal Revenue Service;

“(ii) such individual has completed at least 2 years of current continuous service in the competitive service under 1 or more term appointments, each of which was made under competitive procedures prescribed for permanent appointments;

“(iii) such individual’s performance under each term appointment referred to in clause (ii) met all applicable retention standards; and

“(iv) such individual meets the minimum qualification requirements for the position sought.

(b) RATING SYSTEMS.—

“(1) IN GENERAL.—Notwithstanding subchapter I of chapter 33, the Commissioner of Internal Revenue may establish category rating systems for evaluating job applicants for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant’s knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

“(2) TREATMENT OF PREFERENCE ELIGIBLES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS-9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

“(3) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee’s first certification.

“(c) INVOLUNTARY REASSIGNMENTS AND REMOVALS OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE SERVICE.—Neither section 3395(e)(1) nor section 3592(b)(1) shall apply with respect to the Internal Revenue Service.

“(d) PROBATIONARY PERIODS.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under section 3321 of up to 3 years for any position if, as determined by the Commissioner, a shorter period would be insufficient for the incumbent to demonstrate complete proficiency in such position.

“(e) PROVISIONS THAT REMAIN APPLICABLE.—No provision of this section exempts the Internal Revenue Service from—

“(i) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

“(ii) its obligations under any court order or decree relating to the employment practices of the Internal Revenue Service.

§ 9304. Flexibilities relating to demonstration projects

“(a) AUTHORITY TO CONDUCT.—The Commissioner of Internal Revenue may, in accordance with this section, conduct 1 or more demonstration projects to improve personnel management; provide increased individual accountability; eliminate obstacles to the removal of or imposing any disciplinary action with respect to poor performers, subject to the requirements of due process; expedite appeals from adverse actions or performance-based actions; and promote pay based on performance.

“(b) GENERAL REQUIREMENTS.—Except as provided in subsection (c), each demonstration project under this section shall comply with the provisions of section 4703.

“(c) SPECIAL RULES.—For purposes of any demonstration project under this section—

“(i) AUTHORITY OF COMMISSIONER.—The Commissioner of Internal Revenue shall exercise the authority provided to the Office of Personnel Management under section 4703.

“(2) PROVISIONS NOT APPLICABLE.—The following provisions of section 4703 shall not apply:

“(A) Paragraphs (3) through (6) of subsection (b).

“(B) Paragraphs (1), (2)(B)(ii), and (4) of subsection (c).

“(C) Subsections (d) through (g).

“(d) NOTIFICATION REQUIRED TO BE GIVEN.—

“(i) TO EMPLOYEES.—The Commissioner of Internal Revenue shall notify employees likely to be affected by a project proposed under this section at least 90 days in advance of the date such project is to take effect.

“(2) TO CONGRESS AND OPM.—The Commissioner of Internal Revenue shall, with respect to each demonstration project under this section, provide each House of Congress and the Office of Personnel Management with a report, at least 30 days in advance of the date such project is to take effect, setting forth the final version of the plan for such project. Such report shall, with respect to the project to which it relates, include the information specified in section 4703(b)(1).

“(e) LIMITATIONS.—No demonstration project under this section may—

“(1) provide for a waiver of any regulation prescribed under any provision of law referred to in paragraph (2)(B)(i) or (3) of section 4703(c);

“(2) provide for a waiver of subchapter V of chapter 63 or subpart G of part III (or any regulations prescribed under such subchapter or subpart);

“(3) provide for a waiver of any law or regulation relating to preference eligibles as defined in section 2108 or subchapter II or III of chapter 73 (or any regulations prescribed thereunder);

“(4) permit collective bargaining over pay or benefits, or require collective bargaining over any matter which would not be required under section 7106; or

“(5) include a system for measuring performance that provides for only 1 level of performance at or above the level of fully successful or better.

“(f) PERMISSIBLE PROJECTS.—Notwithstanding any other provision of law, a demonstration project under this section—

“(1) may establish alternative means of resolving any dispute within the jurisdiction of the Equal Employment Opportunity Commission, the Merit Systems Protection Board, the Federal Labor Relations Authority, or the Federal Service Impasses Panel; and

“(2) may permit the Internal Revenue Service to adopt any alternative dispute resolution procedure that a private entity may lawfully adopt.

“(g) CONSULTATION AND COORDINATION.—The Commissioner of Internal Revenue shall consult with the Director of the Office of Personnel Management in the development and implementation of each demonstration project under this section and shall submit such reports to the Director as the Director may require. The Director or the Commissioner of Internal Revenue may terminate a demonstration project under this section if either of them determines that the project creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or qualified applicants for employment with the Internal Revenue Service.

“(h) TERMINATION.—Each demonstration project under this section shall terminate before the end of the 5-year period beginning on the date on which the project takes effect, except that any such project may continue beyond the end of such period, for not to exceed 2 years, if the Commissioner of Internal Revenue, with the concurrence of the Director, determines such extension is necessary to validate the results of the project. Not later than 6 months before the end of the 5-year period and any extension under the preceding sentence, the Commissioner of Internal Revenue shall, with respect to the demonstration project involved, submit a legislative proposal to the Congress if the Commissioner determines that such project should be made permanent, in whole or in part.

“(b) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end the following:

“Subpart I—Miscellaneous

“93. Personnel Flexibilities Relating to the Internal Revenue Service 9301”

“(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

TITLE II—ELECTRONIC FILING

SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of the Congress that paperless filing should be the preferred and most convenient means of filing tax and information returns, and that by the year 2007, no more than 20 percent of all such returns should be filed on paper.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the “Secretary”) shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) PROMOTION OF ELECTRONIC FILING.—

“(i) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

“(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of

appropriate incentives for electronically filed returns.”

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

(2) the status of the plan required by subsection (b); and

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal.

SEC. 202. DUE DATE FOR CERTAIN INFORMATION RETURNS FILED ELECTRONICALLY.

(a) IN GENERAL.—Section 6071 (relating to time for filing returns and other documents) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b) ELECTRONICALLY FILED INFORMATION RETURNS.—Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns required to be filed after December 31, 1999.

SEC. 203. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking “Except as otherwise provided by” and inserting the following:

“(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and”, and

(2) by adding at the end the following new subsection:

“(b) ELECTRONIC SIGNATURES.—

“(i) IN GENERAL.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may waive the requirement of a signature for all returns or classes of returns, or may provide for alternative methods of subscribing all returns, declarations, statements, or other documents required or permitted to be made or written under internal revenue laws and regulations.

“(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement or other document filed without signature under the authority of this subsection or verified, signed or subscribed under any method adopted under paragraph (1) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed and subscribed. Any such return, declaration, statement or other document shall be presumed to have been actually submitted and subscribed by the person on whose behalf it was submitted.

“(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirement.”

(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Section 7502(c) is amended to read as follows:

“(c) REGISTERED AND CERTIFIED MAILING; ELECTRONIC FILING.—

“(i) REGISTERED MAIL.—For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

“(A) such registration shall be prima facie evidence that the return, claim, statement, or other

document was delivered to the agency, officer, or office to which addressed, and

“(B) the date of registration shall be deemed the postmark date.

“(2) CERTIFIED MAIL; ELECTRONIC FILING.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to *prima facie* evidence of delivery and the postmark date shall apply to certified mail and electronic filing.”.

“(C) ESTABLISHMENT OF PROCEDURES FOR OTHER INFORMATION.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(D) PROCEDURES FOR COMMUNICATIONS BETWEEN IRS AND PREPARER OF ELECTRONICALLY FILED RETURNS.—The Secretary shall establish procedures for taxpayers to authorize, on electronically filed returns, the preparer of such returns to communicate with the Internal Revenue Service on matters included on such returns.

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

SEC. 204. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) what additional resources the Internal Revenue Service would need to implement such a system,

(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system,

(3) the procedures developed pursuant to subsection (a), and

(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).

SEC. 205. ACCESS TO ACCOUNT INFORMATION.

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 300. SHORT TITLE.

This title may be cited as the “Taxpayer Bill of Rights 3”.

Subtitle A—Burden of Proof

SEC. 301. BURDEN OF PROOF.

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

“Subchapter E—Burden of Proof

“Sec. 7491. Burden of proof.

“SEC. 7491. BURDEN OF PROOF.

“(a) GENERAL RULE.—The Secretary shall have the burden of proof in any court proceeding with respect to any factual issue relevant to ascertaining the income tax liability of a taxpayer.

“(b) LIMITATIONS.—Subsection (a) shall only apply with respect to an issue if—

“(1) the taxpayer asserts a reasonable dispute with respect to such issue,

“(2) the taxpayer has fully cooperated with the Secretary with respect to such issue, including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer, as reasonably requested by the Secretary, and

“(3) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

“(c) SUBSTANTIATION.—Nothing in this section shall be construed to override any requirement of this title to substantiate any item.”

(b) CONFORMING AMENDMENTS.—

(1) Section 6201 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(2) The table of subchapters for chapter 76 is amended by adding at the end the following new item:

“Subchapter E. Burden of proof.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act.

Subtitle B—Proceedings by Taxpayers

SEC. 311. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AWARD OF HIGHER ATTORNEY'S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting “the difficulty of the issues presented in the case, or the local availability of tax expertise,” before “justifies a higher rate”.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following:

“Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.”.

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended to read as follows:

“(3) ATTORNEY'S FEES.—

“(A) IN GENERAL.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

“(B) PRO BONO SERVICES.—In any case in which the court could have awarded attorney's fees under subsection (a) but for the fact that an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee, the court may also award a judgment or settlement for such amounts as the court determines to be appropriate (based on hours worked and costs expended) for services of such individual but only if such award is paid to such individual or such individual's employer.”

(d) DETERMINATION OF WHETHER POSITION OF UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Subparagraph (B) of section 7430(c)(4) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

“(iii) EFFECT OF LOSING ON SUBSTANTIALLY SIMILAR ISSUES.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United

States has lost in courts of appeal for other circuits on substantially similar issues.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred (and, in the case of the amendment made by subsection (c), services performed) more than 180 days after the date of the enactment of this Act.

SEC. 312. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.

(a) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(1) in subsection (a), by inserting “, or by reason of negligence,” after “recklessly or intentionally”, and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting “(\$100,000, in the case of negligence)” after “\$1,000,000”, and

(B) in paragraph (1), by inserting “or negligent” after “reckless or intentional”.

(b) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—Paragraph (1) of section 7433(d) is amended to read as follows:

“(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 313. INCREASE IN SIZE OF CASES PERMITTED ON SMALL CASE CALENDAR.

(a) IN GENERAL.—Subsection (a) of section 7463 (relating to disputes involving \$10,000 or less) is amended by striking “\$10,000” each place it appears and inserting “\$25,000”.

(b) CONFORMING AMENDMENTS.—

(1) The section heading for section 7463 is amended by striking “\$10,000” and inserting “\$25,000”.

(2) The item relating to section 7463 in the table of sections for part II of subchapter C of chapter 76 is amended by striking “\$10,000” and inserting “\$25,000”.

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

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

SEC. 321. SPOUSE RELIEVED IN WHOLE OR IN PART OF LIABILITY IN CERTAIN CASES.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 is amended by inserting after section 6014 the following new section:

“SEC. 6015. INNOCENT SPOUSE RELIEF; PETITION TO TAX COURT.

“(a) SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.—

“(1) IN GENERAL.—Under procedures prescribed by the Secretary, if—

“(A) a joint return has been made under section 6013 for a taxable year,

“(B) on such return there is an understatement of tax attributable to erroneous items of 1 spouse,

“(C) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such understatement,

“(D) taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such understatement, and

“(E) the other spouse claims (in such form as the Secretary may prescribe) the benefits of this subsection not later than the date which is 2 years after the date of the assessment of such deficiency,

then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement.

“(2) APPORTIONMENT OF RELIEF.—If a spouse who, but for paragraph (1)(C), would be relieved of liability under paragraph (1), establishes that in signing the return such spouse did not know, and had no reason to know, the extent of such understatement, then such spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent that such liability is attributable to the portion of such understatement of which such spouse did not know and had no reason to know.

“(3) UNDERSTATEMENT.—For purposes of this subsection, the term ‘understatement’ has the meaning given to such term by section 6662(d)(2)(A).

“(4) SPECIAL RULE FOR COMMUNITY PROPERTY INCOME.—For purposes of this subsection, the determination of the spouse to whom items of gross income (other than gross income from property) are attributable shall be made without regard to community property laws.

“(b) PETITION FOR REVIEW BY TAX COURT.—In the case of an individual who has filed a claim under subsection (a) within the period specified in subsection (a)(1)(E)—

“(1) IN GENERAL.—Such individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine such claim if such petition is filed during the 90-day period beginning on the earlier of—

“(A) the date which is 6 months after the date such claim is filed with the Secretary; or

“(B) the date on which the Secretary mails by certified or registered mail a notice to such individual denying such claim.

Such 90-day period shall be determined by not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day of such period.

“(2) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

“(A) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court for collection of any assessment to which such claim relates shall be made, begun, or prosecuted, until the expiration of the 90-day period described in paragraph (1), nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

“(B) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time the prohibition under subparagraph (A) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely petition for a determination of such claim has been filed and then only in respect of the amount of the assessment to which such claim relates.

“(C) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the tax is in jeopardy, nothing in this subsection shall prevent the immediate collection of such tax.

“(c) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under subsection (b) relates shall be suspended for the period during which the Secretary is prohibited by subsection (b) from collecting by levy or a proceeding in court and for 60 days thereafter.

“(d) APPLICABLE RULES.—

“(i) ALLOWANCE OF APPLICATION.—Except as provided in paragraph (2), notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be

allowed or made to the extent attributable to the application of this section.

“(2) RES JUDICATA.—In the case of any claim under subsection (a), the determination of the Tax Court in any prior proceeding for the same taxable periods in which the decision has become final, shall be conclusive except with respect to the qualification of the spouse for relief which was not an issue in such proceeding. The preceding sentence shall not apply if the Tax Court determines that the spouse participated meaningfully in such prior proceeding.

“(3) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either spouse pursuant to section 6532, the Tax Court shall lose jurisdiction of the spouse’s action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund.”

(b) SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.

(c) CONFORMING AMENDMENTS.—

(1) Section 6013 is amended by striking subsection (e).

(2) Subparagraph (A) of section 6230(c)(5) is amended by striking “section 6013(e)” and inserting “section 6015”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6014 the following new item: “Sec. 6015. Innocent spouse relief; petition to Tax Court.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to understatements for taxable years beginning after the date of the enactment of this Act.

SEC. 322. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY.—

“(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual’s life that such individual is financially disabled.

“(2) FINANCIALLY DISABLED.—

“(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of his medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

“(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual’s spouse or any other person is authorized to act on behalf of such individual in financial matters.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods of disability before, on, or after the date of the enactment of this Act but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of January 1, 1998.

Subtitle D—Provisions Relating to Interest

SEC. 331. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

“(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by chapters 1 and 2, the net rate of interest under this section on such amounts shall be zero for such period.”

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to the extent that section 6621(d) applies.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

SEC. 332. INCREASE IN OVERPAYMENT RATE PAYABLE TO TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1) (defining overpayment rate) is amended to read as follows:

“(B) 3 percentage points (2 percentage points in the case of a corporation).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

SEC. 341. PRIVILEGE OF CONFIDENTIALITY EXTENDED TO TAXPAYER’S DEALINGS WITH NON-ATTORNEYS AUTHORIZED TO PRACTICE BEFORE INTERNAL REVENUE SERVICE.

Section 7602 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

“(d) PRIVILEGE OF CONFIDENTIALITY EXTENDED TO TAXPAYER’S DEALINGS WITH NON-ATTORNEYS AUTHORIZED TO PRACTICE BEFORE INTERNAL REVENUE SERVICE.—

“(1) IN GENERAL.—In any noncriminal proceeding before the Internal Revenue Service, the taxpayer shall be entitled to the same common law protections of confidentiality with respect to tax advice furnished by any qualified individual (in a manner consistent with State law for such individual’s profession) as the taxpayer would have if such individual were an attorney.

“(2) QUALIFIED INDIVIDUAL.—For purposes of paragraph (1), the term ‘qualified individual’ means any individual (other than an attorney) who is authorized to practice before the Internal Revenue Service.”

SEC. 342. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking “Upon application” and inserting the following:

“(1) IN GENERAL.—Upon application”,
(2) by moving the text 2 ems to the right, and
(3) by adding at the end the following new paragraphs:

“(2) ISSUANCE OF TAXPAYER ASSISTANCE ORDERS.—For purposes of determining whether to issue a taxpayer assistance order, the Taxpayer Advocate shall consider the following factors, among others:

“(A) Whether there is an immediate threat of adverse action.

“(B) Whether there has been an unreasonable delay in resolving taxpayer account problems.

“(C) Whether the taxpayer will have to pay significant costs (including fees for professional representation) if relief is not granted.

“(D) Whether the taxpayer will suffer irreparable injury, or a long-term adverse impact, if relief is not granted.

“(3) STANDARD WHERE ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer.”

SEC. 343. LIMITATION ON FINANCIAL STATUS AUDIT TECHNIQUES.

Section 7602 is amended by adding at the end the following new subsection:

“(e) LIMITATION ON EXAMINATION ON UNREPORTED INCOME.—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.”

SEC. 344. LIMITATION ON AUTHORITY TO REQUIRE PRODUCTION OF COMPUTER SOURCE CODE.

(a) IN GENERAL.—Section 7602 is amended by adding at the end the following new subsection:

“(f) LIMITATION ON AUTHORITY TO REQUIRE PRODUCTION OF COMPUTER SOURCE CODE.—

“(1) IN GENERAL.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, to produce or examine any tax-related computer source code.

“(2) EXCEPTION WHERE INFORMATION NOT OTHERWISE AVAILABLE TO VERIFY CORRECTNESS OF ITEM ON RETURN.—Paragraph (1) shall not apply to any portion of a tax-related computer source code if—

“(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

“(i) the taxpayer's books, papers, records, or other data, or

“(ii) the computer software program and the associated data which, when executed, produces the output to prepare the return for the period involved, and

“(B) the Secretary identifies with reasonable specificity such portion as to be used to verify the correctness of such item.

The Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) after the 90th day after the Secretary makes a formal request to the taxpayer and the owner or developer of the computer software program for the material described in subparagraph (A)(ii) if such material is not provided before the close of such 90th day.

“(3) OTHER EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws, and

“(B) any tax-related computer source code developed by (or primarily for the benefit of) the taxpayer or a related person (within the meaning of section 267 or 707(b)) for internal use by the taxpayer or such person and not for commercial distribution.

“(4) TAX-RELATED COMPUTER SOURCE CODE.—For purposes of this subsection, the term 'tax-related computer source code' means—

“(A) the computer source code for any computer software program for accounting, tax return preparation or compliance, or tax planning, or

“(B) design and development materials related to such a software program (including program notes and memoranda).

“(5) RIGHT TO CONTEST SUMMONS.—The determination of whether the requirements of subparagraphs (A) and (B) of paragraph (2) are met or whether any exception under paragraph (3) applies may be contested in any proceeding under section 7604.

“(6) PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—In any court proceeding to enforce a summons for any portion of a tax-related computer source code, the court may issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such source code, including providing that any information placed under seal to be opened only as directed by the court.”

(b) APPLICATION OF SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—Paragraph (3) of section 7609(a) (defining third-party record-keeper) is amended by striking “and” at the end of subparagraph (H), by striking a period at the end of subparagraph (I) and inserting “, and”, and by adding at the end the following:

“(J) any owner or developer of a tax-related computer source code (as defined in section 7602(f)(4)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7602(f)(2)(A)(ii) to which such source code relates.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued more than 90 days after the date of the enactment of this Act.

SEC. 345. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) IN GENERAL.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking “Where” and inserting the following:

“(A) IN GENERAL.—Where”,

(2) by moving the text 2 ems to the right, and

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

“(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent.”

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

SEC. 346. OFFERS-IN-COMPROMISE.

(a) ALLOWANCES FOR BASIC LIVING EXPENSES.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

“(c) ALLOWANCES FOR BASIC LIVING EXPENSES.—The Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.”

(b) PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE.—The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

(1) advise taxpayers who have entered into a compromise agreement of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status, and

(2) provide notice to taxpayers that in the case of a compromise agreement terminated due to the actions of 1 spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such agreement with the spouse or former spouse who remains in compliance with such agreement.

SEC. 347. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall include on

each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.

(b) LATER FILING DEADLINES SPECIFIED ON NOTICE OF DEFICIENCY TO BE BINDING.—Subsection (a) of section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by adding at the end the following new sentence: “Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.”

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall apply to notices mailed after December 31, 1998.

SEC. 348. REFUND OR CREDIT OF OVERPAYMENTS BEFORE FINAL DETERMINATION.

(a) TAX COURT PROCEEDINGS.—Subsection (a) of section 6213 is amended—

(1) by striking “, including the Tax Court.” and inserting “, including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.”, and

(2) by striking “to enjoin any action or proceeding” and inserting “to enjoin any action or proceeding or order any refund”.

(b) OTHER PROCEEDINGS.—Subsection (a) of section 6512 is amended by striking the period at the end of paragraph (4) and inserting “, and”, and by inserting after paragraph (4) the following new paragraphs:

“(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

“(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).”

(c) REFUND OR CREDIT PENDING APPEAL.—Paragraph (1) of section 6512(b) is amended by adding at the end the following new sentence: “If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.”

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

SEC. 349. THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.

Subtitle F—Disclosures to Taxpayers

SEC. 351. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

SEC. 352. EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS WITH THE INTERNAL REVENUE SERVICE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service, and

(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.

SEC. 353. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) **IN GENERAL.**—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) **TRANSMISSION TO COMMITTEES OF CONGRESS.**—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 354. EXPLANATIONS OF APPEALS AND COLLECTION PROCESS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, include with any 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the appeals process and the collection process with respect to such proposed deficiency.

Subtitle G—Low Income Taxpayer Clinics

SEC. 361. LOW INCOME TAXPAYER CLINICS.

(a) **IN GENERAL.**—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

“SEC. 7525. LOW INCOME TAXPAYER CLINICS.

“(a) **IN GENERAL.**—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

“(b) **DEFINITIONS.**—For purposes of this section—

“(i) **QUALIFIED LOW INCOME TAXPAYER CLINIC.**—

“(A) **IN GENERAL.**—The term 'qualified low income taxpayer clinic' means a clinic that—

“(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

“(ii)(I) represents low income taxpayers in controversies with the Internal Revenue Service, or

“(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

“(B) **REPRESENTATION OF LOW INCOME TAXPAYERS.**—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

“(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

“(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

“(2) **CLINIC.**—The term 'clinic' includes—

“(A) a clinical program at an accredited law school in which students represent low income

taxpayers in controversies arising under this title, and

“(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

“(3) **QUALIFIED REPRESENTATIVE.**—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service on the applicable court.

“(c) **SPECIAL RULES AND LIMITATIONS.**—

“(1) **AGGREGATE LIMITATION.**—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than \$3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

“(2) **LIMITATION ON ANNUAL GRANTS TO A CLINIC.**—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed \$100,000.

“(3) **MULTI-YEAR GRANTS.**—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

“(4) **CRITERIA FOR AWARDS.**—In determining whether to make a grant under this section, the Secretary shall consider—

“(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

“(B) the existence of other low income taxpayer clinics serving the same population,

“(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

“(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

“(5) **REQUIREMENT OF MATCHING FUNDS.**—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

“(A) the salary (including fringe benefits) of individuals performing services for the clinic, and

“(B) the cost of equipment used in the clinic. Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.”

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

“Sec. 7525. Low income taxpayer clinics.”

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

Subtitle H—Other Matters

SEC. 371. ACTIONS FOR REFUND WITH RESPECT TO CERTAIN ESTATES WHICH HAVE ELECTED THE INSTALLMENT METHOD OF PAYMENT.

(a) **IN GENERAL.**—Section 7422 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) **SPECIAL RULE FOR ACTIONS WITH RESPECT TO ESTATES FOR WHICH AN ELECTION UNDER SECTION 6166 IS MADE.**—

“(1) **IN GENERAL.**—The district courts of the United States and the United States Court of Federal Claims shall have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) even if the full amount of such liability has not been paid.

“(2) **ESTATES TO WHICH SUBSECTION APPLIES.**—This subsection shall apply to any estate if, as of the date the action is filed—

“(A) an election under section 6166 is in effect with respect to such estate,

“(B) no portion of the installments payable under such section have been accelerated, and

“(C) all installments the due date for which is on or before the date the action is filed have been paid.

“(3) **PROHIBITION ON COLLECTION OF DISALLOWED LIABILITY.**—If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.”

(b) **EXTENSION OF TIME TO FILE REFUND SUIT.**—Section 7479 (relating to declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166) is amended by adding at the end the following new subsection:

“(c) **EXTENSION OF TIME TO FILE REFUND SUIT.**—The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any claim for refund filed after the date of the enactment of this Act.

SEC. 372. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of Taxpayer Bill of Rights 2 (Public Law 104-168), the Secretary of the Treasury or the Secretary's delegate shall maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

SEC. 373. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) **IN GENERAL.**—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

“(17) **DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.**—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsections (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.”

(b) **CONFORMING AMENDMENTS.**—Section 6103(p) is amended—

(1) in paragraph (3)(A), by striking “or (16)” and inserting “(16), or (17)”,

(2) in paragraph (4), by striking “or (14)” and inserting “(14), or (17)” in the matter preceding subparagraph (A), and

(3) in paragraph (4)(F)(ii), by striking “or (15)” and inserting “(15), or (17)”,

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

SEC. 374. PAYMENT OF TAXES.

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

SEC. 375. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.

Subsection (d) of section 7805 is amended by striking “by regulations or forms”.

SEC. 376. LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) **IN GENERAL.**—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

“(h) **LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.**—No addition to the tax shall be imposed under paragraph (2) or (3) of subsection (a) with respect to the tax liability of an individual for any month during which an installment agreement under section 6159 is in effect for the payment of such tax to the extent that imposing an addition to the tax under such paragraph for such month would result in the aggregate number of percentage points of such addition to the tax exceeding 9.5.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply for purposes of determining additions to the tax for months beginning after the date of the enactment of this Act.

Subtitle I—Studies**SEC. 381. PENALTY ADMINISTRATION.**

The Joint Committee on Taxation shall conduct a study—

(1) reviewing the administration and implementation by the Internal Revenue Service of the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989, and

(2) making any legislative and administrative recommendations it deems appropriate to simplify penalty administration and reduce tax-payer burden.

Such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 9 months after the date of enactment of this Act.

SEC. 382. CONFIDENTIALITY OF TAX RETURN INFORMATION.

The Joint Committee on Taxation shall conduct a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress not later than one year after the date of the enactment of this Act. Such study shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to file tax returns, but does not file tax returns.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE**Subtitle A—Oversight****SEC. 401. EXPANSION OF DUTIES OF THE JOINT COMMITTEE ON TAXATION.**

(a) **IN GENERAL.**—Section 8021 (relating to the powers of the Joint Committee on Taxation) is amended by adding at the end the following new subsections:

“(e) **INVESTIGATIONS.**—The Joint Committee shall review all requests (other than requests by the chairman or ranking member of a Committee or Subcommittee) for investigations of the Internal Revenue Service by the General Accounting Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the General Accounting Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

“(f) **RELATING TO JOINT HEARINGS.**—

“(1) **IN GENERAL.**—The Chief of Staff, and such other staff as are appointed pursuant to section 8004, shall provide such assistance as is required for joint hearings described in paragraph (2).

“(2) **JOINT HEARINGS.**—On or before April 1 of each calendar year after 1997, there shall be a joint hearing of two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, to review the strategic plans and budget for the Internal Revenue Service. After the conclusion of the annual filing season, there shall be a second annual joint hearing to review the other matters outlined in section 8022(3)(C).”

(b) **EFFECTIVE DATES.**—

(1) Subsection (e) of section 8021 of the Internal Revenue Code of 1986, as added by subsection (a) of this section, shall apply to requests made after the date of enactment of this Act.

(2) Subsection (f) of section 8021 of the Internal Revenue Code of 1986, as added by subsection (a) of this section, shall take effect on the date of the enactment of this Act.

SEC. 402. COORDINATED OVERSIGHT REPORTS.

(a) **IN GENERAL.**—Paragraph (3) of section 8022 (relating to the duties of the Joint Committee on Taxation) is amended to read as follows:

“(3) **REPORTS.**—

“(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

“(B) To report, annually, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

“(C) To report, annually, to the Committees on Finance, Appropriations, and Government Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to—

“(i) strategic and business plans for the Internal Revenue Service;
(ii) progress of the Internal Revenue Service in meeting its objectives;
(iii) the budget for the Internal Revenue Service and whether it supports its objectives;
(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;
(v) progress of the Internal Revenue Service on technology modernization; and
(vi) the annual filing season.”

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

Subtitle B—Budget**SEC. 411. FUNDING FOR CENTURY DATE CHANGE.**

It is the sense of Congress that the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

SEC. 412. FINANCIAL MANAGEMENT ADVISORY GROUP.

The Commissioner shall convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues, including—

(1) the continued partnership between the Internal Revenue Service and the General Accounting Office;

(2) the financial accounting aspects of the Internal Revenue Service's system modernization;

(3) the necessity and utility of year-round auditing; and

(4) the Commissioner's plans for improving its financial management system.

Subtitle C—Tax Law Complexity**SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.**

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

SEC. 422. TAX COMPLEXITY ANALYSIS.

(a) **REQUIRING ANALYSIS TO ACCOMPANY CERTAIN LEGISLATION.**—

(1) **IN GENERAL.**—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

“SEC. 8024. TAX COMPLEXITY ANALYSIS.

“(a) **IN GENERAL.**—If—

“(1) a bill or joint resolution is reported by the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference, and

“(2) such legislation includes any provision amending the Internal Revenue Code of 1986, the report for such legislation shall contain a Tax Complexity Analysis unless the committee involved causes to have the Tax Complexity Analysis printed in the Congressional Record prior to the consideration of the legislation in the House of Representatives or the Senate (as the case may be).

“(b) **LEGISLATION SUBJECT TO POINT OF ORDER.**—It shall not be in order in the Senate to consider any bill or joint resolution described in subsection (a) required to be accompanied by a Tax Complexity Analysis that does not contain a Tax Complexity Analysis.

“(c) **RESPONSIBILITIES OF THE COMMISSIONER.**—The Commissioner shall provide the Joint Committee on Taxation with such information as is necessary to prepare Tax Complexity Analyses.

“(d) **TAX COMPLEXITY ANALYSIS DEFINED.**—For purposes of this section, the term ‘Tax Complexity Analysis’ means, with respect to a bill or joint resolution, a report which is prepared by the Joint Committee on Taxation and which identifies the provisions of the legislation adding significant complexity or providing significant simplification (as determined by the Joint Committee) and includes the basis for such determination.”

(2) **CLERICAL AMENDMENT.**—The table of sections for chapter 92 is amended by adding at the end the following new item:

“Sec. 8024. Tax complexity analysis.”

(b) **LEGISLATION SUBJECT TO POINT OF ORDER IN HOUSE OF REPRESENTATIVES.**—

(1) **LEGISLATION REPORTED BY COMMITTEE ON WAYS AND MEANS.**—Clause 2(l) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

“(8) The report of the Committee on Ways and Means on any bill or joint resolution containing any provision amending the Internal Revenue Code of 1986 shall include a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 8024 of the Internal Revenue Code of 1986 unless the Committee on Ways and Means causes to have such Analysis printed in the Congressional Record prior to the consideration of the bill or joint resolution.”

(2) **CONFERENCE REPORTS.**—Rule XXVIII of the Rules of the House of Representatives is amended by adding at the end the following new clause:

"7. It shall not be in order to consider the report of a committee of conference which contains any provision amending the Internal Revenue Code of 1986 unless—

"(a) the accompanying joint explanatory statement contains a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 8024 of the Internal Revenue Code of 1986, or

"(b) such Analysis is printed in the Congressional Record prior to the consideration of the report."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to legislation considered on or after January 1, 1998.

TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION

SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Subsection (a) of section 404 is amended by adding at the end the following new paragraph:

"(1) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—

"(A) IN GENERAL.—For purposes of determining under this section—

"(i) whether compensation of an employee is deferred compensation, and

"(ii) when deferred compensation is paid, no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to severance pay."

(b) SICK LEAVE PAY TREATED LIKE VACATION PAY.—Paragraph (5) of section 404(a) is amended by inserting "or sick leave pay" after "vacation pay".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

TITLE VI—TAX TECHNICAL CORRECTIONS ACT OF 1997

SEC. 601. SHORT TITLE

This title may be cited as the "Tax Technical Corrections Act of 1997".

SEC. 602. DEFINITIONS.

For purposes of this title—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) 1997 ACT.—The term "1997 Act" means the Taxpayer Relief Act of 1997.

SEC. 603. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 101(a) OF 1997 ACT.—

(1) Subsection (d) of section 24 of the 1986 Code is amended—

(A) by striking paragraphs (3) and (4),

(B) by redesignating paragraph (5) as paragraph (3), and

(C) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—In the case of a taxpayer with 3 or more qualifying children for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (with

out regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the excess (if any) of—

"(i) the taxpayer's social security taxes for the taxable year, over

"(ii) the credit allowed under section 32 (determined without regard to subsection (n)) for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

"(2) REDUCTION OF CREDIT TO TAXPAYER SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit determined under this subsection for the taxable year shall be reduced by the excess (if any) of—

"(A) the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year, over

"(B) the amount of the reduction under section 32(h) with respect to such taxpayer for such taxable year."

"(2) Paragraph (3) of section 24(d) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking "paragraph (3)" and inserting "paragraph (1)".

"(b) AMENDMENTS RELATED TO SECTION 101(b) OF 1997 ACT.—

(1) The subsection (m) of section 32 of the 1986 Code added by section 101(b) of the 1997 Act is amended to read as follows:

"(n) SUPPLEMENTAL CHILD CREDIT.—

"(1) IN GENERAL.—In the case of a taxpayer with respect to whom a credit is allowed under section 24 for the taxable year, the credit otherwise allowable under this section shall be increased by the lesser of—

"(A) the credit which would be allowed under section 24 without regard to this subsection and the limitation under section 26(a), or

"(B) the amount by which the aggregate amount of credits allowed by subpart A (without regard to this subsection) would be reduced if the limitation imposed by section 26(a) were reduced by the excess (if any) of—

"(i) the credit allowed by this section (without regard to this subsection) for the taxable year, over

"(ii) the taxpayer's social security taxes (as defined in section 24(d)) for the taxable year.

The credit determined under this subsection shall be allowed without regard to any other provision of this section, including subsection (d).

"(2) COORDINATION WITH OTHER CREDITS.—

"(A) IN GENERAL.—The amount of the credit under this subsection shall reduce the amount of the credit otherwise allowable under section 24, but the amount of the credit under this subsection (and such reduction) shall not otherwise be taken into account in determining the amount of any other credit allowable under this part.

"(B) TREATMENT OF CREDIT UNDER SECTION 24(d).—For purposes of this subsection, the credit determined under section 24(d) shall be treated as not allowed under section 24."

SEC. 604. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF 1997 ACT.—

(1) The item relating to section 25A in the table of sections for subpart A of part IV of subchapter A of chapter 1 of the 1986 Code is amended to read as follows:

"Sec. 25A. Hope and Lifetime Learning credits. "

"(2) Subsection (a) of section 6050S of the 1986 Code is amended to read as follows:

"(a) IN GENERAL.—Any person—

"(1) which is an eligible educational institution—

"(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses.

"(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses, or

"(3) except as provided in regulations, any person which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating \$600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe."

(3) Subparagraph (A) of section 201(c)(2) of the 1997 Act is amended to read as follows:

"(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses). "

(b) AMENDMENTS RELATED TO SECTION 211 OF 1997 ACT.—

(1) Paragraph (3) of section 135(c) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5). "

(2) Subparagraph (A) of section 529(c)(3) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(c) AMENDMENTS RELATED TO SECTION 213 OF 1997 ACT.—

(1)(A) Section 530(b)(1)(E) of the 1986 Code (defining education individual retirement account) is amended to read as follows:

"(E) Any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death to the estate of such beneficiary."

(B) Subsection (d) of section 530 of the 1986 Code is amended by adding at the end the following new paragraph:

"(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period."

(2)(A) Paragraph (1) of section 530(d) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(B) Subsection (e) of section 72 of the 1986 Code is amended by inserting after paragraph (8) the following new paragraph:

"(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph."

(3) So much of section 530(d)(4)(C) of the 1986 Code as precedes clause (ii) thereof is amended to read as follows:

"(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

"(i) such distribution is made on or before the day prescribed by law (including extensions of

time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year, and".

(4) Subparagraph (C) of section 135(c)(2) of the 1986 Code is amended—

(A) by inserting "AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS" in the heading after "PROGRAM", and

(B) by striking "section 529(c)(3)(A)" and inserting "section 72".

(5) Subparagraph (A) of section 4973(e)(1) of the 1986 Code is amended by inserting before the comma "(or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year)".

(d) AMENDMENT RELATED TO SECTION 224 OF 1997 ACT.—Section 170(e)(6)(F) of the 1986 Code (relating to termination) is amended by striking "1999" and inserting "2000".

(e) AMENDMENTS RELATED TO SECTION 225 OF 1997 ACT.—

(1) The last sentence of section 108(f)(2) of the 1986 Code is amended to read as follows:

"The term 'student loan' includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii)."

(2) Section 108(f)(3) of the 1986 Code is amended by striking "(or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D))".

(f) AMENDMENTS RELATED TO SECTION 226 OF 1997 ACT.—

(1) Section 226(a) of the 1997 Act is amended by striking "section 1397E" and inserting "section 1397D".

(2) Section 1397E(d)(4)(B) of the 1986 Code is amended by striking "local education agency as defined" and inserting "local educational agency as defined".

SEC. 605. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF 1997 ACT.—Section 219(g) of the 1986 Code is amended—

(1) by inserting "or the individual's spouse" after "individual" in paragraph (1), and

(2) by striking paragraph (7) and inserting:

"(7) SPECIAL RULE FOR SPOUSES WHO ARE NOT ACTIVE PARTICIPANTS.—If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

"(A) the applicable dollar amount under paragraph (3)(B)(i) shall be \$150,000, and

"(B) the amount applicable under paragraph (2)(A)(ii) shall be \$10,000."

(b) AMENDMENTS RELATED TO SECTION 302 OF 1997 ACT.—

(1) Section 408A(c)(3)(A) of the 1986 Code is amended by striking "shall be reduced" and inserting "shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced".

(2) Section 408A(c)(3) of the 1986 Code (relating to limits based on modified adjusted gross income) is amended—

(A) by inserting "or a married individual filing a separate return" after "joint return" in subparagraph (A)(ii), and

(B) by striking "and the deduction under section 219 shall be taken into account" in subparagraph (C)(i).

(3) Section 408A(d)(2) of the 1986 Code (defining qualified distribution) is amended by strik-

ing subparagraph (B) and inserting the following:

"(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made before the exclusion date for the Roth IRA.

"(C) EXCLUSION DATE.—For purposes of this section, the exclusion date for any Roth IRA is the first day of the taxable year immediately following the 5-taxable year period beginning with—

"(i) the first taxable year for which a contribution to any Roth IRA maintained for the benefit of the individual was made, or

"(ii) in the case of a Roth IRA to which 1 or more qualified rollover contributions were made—

"(I) from an individual retirement plan other than a Roth IRA, or

"(II) from another Roth IRA to the extent such contributions are properly allocable to contributions described in subclause (I),

the most recent taxable year for which any such qualified rollover contribution was made."

(4) Section 408A(d)(3) of the 1986 Code (relating to rollovers from IRAs other than Roth IRAs) is amended by adding at the end the following:

"(F) SPECIAL RULE FOR APPLYING SECTION 72.—

"(i) IN GENERAL.—If—

"(I) any distribution from a Roth IRA is made before the exclusion date, and

"(II) any portion of such distribution is properly allocable to a qualified rollover contribution described in paragraph (2)(C)(ii),

then section 72(t) shall be applied as if such portion were includible in gross income.

"(ii) LIMITATION.—Clause (i) shall apply only to the extent of the amount includible in gross income under subparagraph (A)(i) by reason of the qualified rollover contribution.

"(G) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

"(i) DEATH OF DISTRIBUTUEE.—

"(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

"(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subparagraph (A) acquires the Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to include the remaining amounts described in subparagraph (I) in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible.

"(ii) ADDITIONAL TAX FOR EARLY DISTRIBUTION.—

"(I) IN GENERAL.—If any distribution from a Roth IRA is made before the exclusion date, and any portion of such distribution is properly allocable to such qualified rollover contribution, the distributee's tax under this chapter for the taxable year in which the amount is received shall be increased by 10 percent of the amount of such portion not in excess of the amount includible in gross income under subparagraph (A)(i) by reason of such qualified rollover contribution.

"(II) TREATMENT OF TAX.—For purposes of this title, any tax imposed by subparagraph (I) shall be treated as a tax imposed by section 72(t) and shall be in addition to any other tax imposed by such section."

(5) (A) Section 408A(d)(4) of the 1986 Code is amended to read as follows:

"(4) AGGREGATION AND ORDERING RULES.—

"(A) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to—

"(i) Roth IRAs and other individual retirement plans,

"(ii) Roth IRAs described in paragraph (2)(C)(ii) and Roth IRAs not so described, and

"(iii) Roth IRAs described in paragraph (2)(C)(ii) with different exclusion dates.

"(B) ORDERING RULES.—For purposes of applying section 72 to any distribution from a Roth IRA which is not a qualified distribution, such distribution shall be treated as made—

"(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA, and

"(ii) from such contributions in the following order:

"(I) Qualified rollover contributions to the extent includible in gross income in the manner described in paragraph (3)(A)(iii).

"(II) Qualified rollover contributions not described in subparagraph (I) to the extent includible in gross income under paragraph (3)(A).

"(III) Contributions not described in subparagraph (I) or (II).

Such rules shall also apply in determining the character of qualified rollover contributions from one Roth IRA to another Roth IRA."

(B) Section 408A(d)(1) of the 1986 Code is amended to read as follows:

"(1) EXCLUSION.—Any qualified distribution from a Roth IRA shall not be includible in gross income."

(6) (A) Section 408A(d) of the 1986 Code (relating to distribution rules) is amended by adding at the end the following:

"(6) TAXPAYER MAY MAKE ADJUSTMENTS BEFORE DUE DATE.—

"(A) IN GENERAL.—Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

"(B) SPECIAL RULES.—

"(i) TRANSFER OF EARNINGS.—Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

"(ii) NO DEDUCTION.—Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.

"(C) DUE DATE.—For purposes of this paragraph, the due date for any taxable year is the last date for filing the return of tax for such taxable year (including extensions)."

(B) Section 408A(d)(3) of the 1986 Code, as amended by this subsection, is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(7) Section 302(b) of the 1997 Act is amended by striking "Section 4973(b)" and inserting "Section 4973".

(8) Section 408A of the 1986 Code is amended by adding at the end the following new subsection:

"(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section, except as provided by the Secretary, the term 'individual retirement plan' shall not include a simplified employee pension or a simple retirement account."

(c) AMENDMENTS RELATED TO SECTION 303 OF 1997 ACT.—

(1) Section 72(t)(8)(E) of the 1986 Code is amended—

(A) by striking “120 days” and inserting “120th day”, and

(B) by striking “60 days” and inserting “60th day”.

(2)(A) Section 402(c) of the 1986 Code is amended by adding at the end the following:

“(11) DENIAL OF ROLLOVER TREATMENT FOR TRANSFERS OF HARSHSHIP DISTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—This subsection shall not apply to the transfer of any hardship distribution described in section 401(k)(2)(B)(i)(IV) from a qualified cash or deferred arrangement to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B).”

(B) The amendment made by this paragraph shall apply to distributions made after December 31, 1997.

(d) AMENDMENTS RELATED TO SECTION 311 OF 1997 ACT.—

(1) Subsection (h) of section 1 of the 1986 Code (relating to maximum capital gains rate) is amended to read as follows:

“(h) MAXIMUM CAPITAL GAINS RATE.—

“(I) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

“(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

“(i) taxable income reduced by the net capital gain, or

“(ii) the lesser of—

“(I) the amount of taxable income taxed at a rate below 28 percent, or

“(II) taxable income reduced by the adjusted net capital gain,

“(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

“(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

“(ii) the taxable income reduced by the adjusted net capital gain,

“(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B),

“(D) 25 percent of the excess (if any) of—

“(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

“(ii) the excess (if any) of—

“(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

“(II) taxable income, and

“(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—

(A) REDUCTION IN 10-PERCENT RATE.—In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

(B) REDUCTION IN 20-PERCENT RATE.—The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of—

(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph, or

“(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term ‘adjusted net capital gain’ means net capital gain reduced (but not below zero) by the sum of—

“(A) unrecaptured section 1250 gain, and

“(B) 28 percent rate gain.

(5) 28 PERCENT RATE GAIN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘28 percent rate gain’ means the excess (if any) of—

“(i) the sum of—

“(I) the aggregate long-term capital gain from property held for more than 1 year but not more than 18 months,

“(II) collectibles gain, and

“(III) section 1202 gain, over

“(ii) the sum of—

“(I) the aggregate long-term capital loss (not described in subparagraph (IV)) from property referred to in clause (i)(I),

“(II) collectibles loss,

“(III) the net short-term capital loss, and

“(IV) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

(B) SPECIAL RULES.—

(i) SHORT SALES AND OPTIONS.—Rules similar to the rules of subsections (b) and (d) of section 1233 shall apply to substantially identical property, and section 1092(f) with respect to stock, held for more than 1 year but not more than 18 months.

(ii) SECTION 1256 CONTRACTS.—Amounts treated as long-term capital gain or loss under section 1256(a)(3) shall be treated as attributable to property held for more than 18 months.

(6) COLLECTIBLES GAIN AND LOSS.—For purposes of this subsection—

(A) IN GENERAL.—The terms ‘collectibles gain’ and ‘collectibles loss’ mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m)) without regard to paragraph (3) thereof which is a capital asset held for more than 18 months but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

(7) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection—

(A) IN GENERAL.—The term ‘unrecaptured section 1250 gain’ means the excess (if any) of—

(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if—

(I) section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, and

(II) only gain from property held for more than 18 months were taken into account, over

(ii) the excess (if any) of—

(I) the amount described in paragraph (5)(A)(ii), over

(II) the amount described in paragraph (5)(A)(i).

(B) LIMITATION WITH RESPECT TO SECTION 1231 PROPERTY.—The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

(8) SECTION 1202 GAIN.—For purposes of this subsection, the term ‘section 1202 gain’ means an amount equal to the gain excluded from gross income under section 1202(a).

(9) QUALIFIED 5-YEAR GAIN.—For purposes of this subsection, the term ‘qualified 5-year gain’ means the amount of long-term capital gain which would be computed for the taxable year if only gains from the sale or exchange of property held by the taxpayer for more than 5 years were taken into account. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

(10) COORDINATION WITH RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.—If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

(11) REGULATIONS.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

(12) PASS-THRU ENTITY DEFINED.—For purposes of this subsection, the term ‘pass-thru entity’ means—

(A) a regulated investment company,

(B) a real estate investment trust,

(C) an S corporation,

(D) a partnership,

(E) an estate or trust,

(F) a common trust fund,

(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247, and

(H) a qualified electing fund (as defined in section 1295).

(13) SPECIAL RULES FOR PERIODS DURING 1997.—

(A) DETERMINATION OF 28 PERCENT RATE GAIN.—In applying paragraph (5)—

(i) the amount determined under subparagraph (I) of paragraph (5)(A)(i) shall include long-term capital gain (not otherwise described in paragraph (5)(A)(i)) which is properly taken into account for the portion of the taxable year before May 7, 1997,

(ii) the amounts determined under subparagraph (I) of paragraph (5)(A)(ii) shall include long-term capital loss (not otherwise described in paragraph (5)(A)(ii)) which is properly taken into account for the portion of the taxable year before May 7, 1997, and

(iii) clauses (i)(I) and (ii)(I) of paragraph (5)(A) shall be applied by not taking into account any gain and loss on property held for more than 1 year but not more than 18 months which is properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

(B) OTHER SPECIAL RULES.—

(i) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN NOT TO INCLUDE PRE-MAY 7, 1997

GAIN.—The amount determined under paragraph (7)(A)(i) shall not include gain properly taken into account for the portion of the taxable year before May 7, 1997.

“(ii) OTHER TRANSITIONAL RULES FOR 18-MONTH HOLDING PERIOD.—Paragraphs (6)(A) and (7)(A)(II) shall be applied by substituting ‘1 year’ for ‘18 months’ with respect to gain properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

“(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.”

(2) IN GENERAL.—Paragraph (3) of section 55(b) of the 1986 Code is amended to read as follows:

“(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

“(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

“(i) the net capital gain, or

“(ii) the sum of—

“(I) the adjusted net capital gain, plus

“(II) the unrecaptured section 1250 gain, plus

“(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

“(C) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

“(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.”

(3) Section 57(a)(7) of the 1986 Code is amended by adding at the end the following new sentence: “In the case of stock the holding period of which begins after December 31, 2000 (determined with the application of the last sentence of section 1(h)(2)(B)), the preceding sentence shall be applied by substituting ‘28 percent’ for ‘42 percent’.”

(4) Paragraphs (11) and (12) of section 1223, and section 1235(a), of the 1986 Code are each amended by striking “1 year” each place it appears and inserting “18 months”.

(e) AMENDMENTS RELATED TO SECTION 312 OF 1997 ACT.—

(i) Section 121(c)(1) of the 1986 Code is amended to read as follows:

“(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a), and subsection (b)(3), shall not apply; but the dollar limitation under paragraph (1) or (2) of subsection (b), whichever is applicable, shall be equal to—

“(A) the amount which bears the same ratio to such limitation (determined without regard to this paragraph) as

“(B)(i) the shorter of—

“(I) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer’s principal residence, or

“(II) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange, bears to

“(ii) 2 years.”

(2) Section 312(d)(2) of the 1997 Act (relating to sales before date of enactment) is amended by inserting “on or” before “before” each place it appears in the text and heading.

(f) AMENDMENT RELATED TO SECTION 313 OF 1997 ACT.—Section 1045 of the 1986 Code is amended by adding at the end the following new subsection:

“(c) LIMITATION ON APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—Subsection (a) shall apply to a partnership or S corporation for a taxable year only if at all times during such taxable year all of the partners in the partnership, or all of the shareholders of the S corporation, are natural persons or estates.”

SEC. 606. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF 1997 ACT.—

(1) Subsection (c) of section 2631 of the 1986 Code is amended by striking “an individual who dies” and inserting “a generation-skipping transfer”.

(2) Subsection (f) of section 501 of the 1997 Act is amended by inserting “(other than the amendment made by subsection (d))” after “this section”.

(b) AMENDMENTS RELATED TO SECTION 502 OF 1997 ACT.—

(1) Subsection (a) of section 2033A of the 1986 Code is amended to read as follows:

“(a) EXCLUSION.—

“(I) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

“(A) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

“(B) the exclusion limitation with respect to such estate.

“(2) EXCLUSION LIMITATION.—

“(A) IN GENERAL.—The exclusion limitation with respect to any estate is the amount of reduction in the tentative tax base with respect to such estate which would be required in order to reduce the tax imposed by section 2001(b) (determined without regard to this section) by an amount equal to the maximum credit equivalent benefit.

“(B) MAXIMUM CREDIT EQUIVALENT BENEFIT.—For purposes of subparagraph (A), the term ‘maximum credit equivalent benefit’ means the excess of—

“(i) the amount by which the tentative tax imposed by section 2001(b) (determined without regard to this section) would be reduced if the tentative tax base were reduced by \$675,000, over

“(ii) the amount by which the applicable credit amount under section 2010(c) with respect to such estate exceeds such applicable credit amount in effect for 1998.

“(C) TENTATIVE TAX BASE.—For purposes of this paragraph, the term ‘tentative tax base’ means the amount with respect to which the tax imposed by section 2001(b) would be computed without regard to this section.”

(2) Section 2033A(b)(3) of the 1986 Code is amended to read as follows:

“(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the sum of—

“(A) the amount of such gifts from the decedent to members of the decedent’s family taken into account under section 2001(b)(1)(B), plus

“(B) the amount of such gifts otherwise excluded under section 2503(b), to the extent such interests are continuously held by members of such family (other than the

decedent’s spouse) between the date of the gift and the date of the decedent’s death.”

(c) AMENDMENTS RELATED TO SECTION 503 OF THE 1997 ACT.—

(1) Clause (iii) of section 6166(b)(7)(A) of the 1986 Code is amended to read as follows:

“(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.”

(2) Clause (iii) of section 6166(b)(8)(A) of the 1986 Code is amended to read as follows:

“(iii) 2-PERCENT INTEREST RATE NOT TO APPLY.—For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.”

(d) AMENDMENT RELATED TO SECTION 505 OF THE 1997 ACT.—Paragraphs (1) and (2) of section 7479(a) of the 1986 Code are each amended by striking “an estate,” and inserting “an estate (or with respect to any property included therein)”.

(e) AMENDMENTS RELATED TO SECTION 506 OF THE 1997 ACT.—

(1) Subsection (c) of section 2504 of the 1986 Code is amended by striking “was assessed or paid” and inserting “was finally determined for purposes of this chapter”.

(2) Paragraph (1) of section 506(e) of the 1997 Act is amended by striking “and (c)” and inserting “, (c), and (d)”.

SEC. 607. AMENDMENTS RELATED TO TITLE VII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1400 OF 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is amended by inserting “as determined on the basis of the 1990 census” after “percent”.

(b) AMENDMENTS RELATED TO SECTION 1400B OF 1986 CODE.—

(1) Section 1400B(d)(2) of the 1986 Code is amended by inserting “as determined on the basis of the 1990 census” after “percent”.

(2) Section 1400B(b) of the 1986 Code is amended by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(c) AMENDMENTS RELATED TO SECTION 1400C OF 1986 CODE.—

(1) Paragraph (1) of section 1400C(c) of the 1986 Code is amended to read as follows:

“(1) IN GENERAL.—The term ‘first-time homebuyer’ means any individual if such individual (and if married, such individual’s spouse) had no present ownership interest in a principal residence in the District of Columbia during the 1-year period ending on the date of the purchase of the principal residence to which this section applies.”

(2) Subparagraph (B) of section 1400C(e)(2) of the 1986 Code is amended by inserting before the period “on the date the taxpayer first occupies such residence”.

(3) Paragraph (3) of section 1400C(e) of the 1986 Code is amended by striking all that follows “principal residence” and inserting “on the date such residence is purchased.”

(4) Subsection (i) of section 1400C of the 1986 Code is amended to read as follows:

“(i) APPLICATION OF SECTION.—This section shall apply to property purchased after August 4, 1997, and before January 1, 2001.”

(5) Subsection (c) of section 23 of the 1986 Code is amended by inserting “and section 1400C” after “other than this section”.

(6) Subparagraph (C) of section 25(e)(1) of the 1986 Code is amended by striking “section 23” and inserting “sections 23 and 1400C”.

SEC. 608. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 901 OF 1997 ACT.—Section 9503(c)(7) of the 1986 Code is amended—

(i) by striking “resulting from the amendments made by” and inserting “(and transfers to the Mass Transit Account) resulting

from the amendments made by subsections (a) and (b) of section 901 of", and

(2) by inserting before the period "and deposits in the Highway Trust Fund (and transfers to the Mass Transit Account) shall be treated as made when they would have been required to be made without regard to section 901(e) of the Taxpayer Relief Act of 1997".

(b) AMENDMENT RELATED TO SECTION 907 OF 1997 ACT.—Paragraph (2) of section 9503(e) of the 1986 Code is amended by striking the last sentence and inserting the following new sentence: "For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

"(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

"(B) 1.77 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

"(C) 1.86 cents per gallon in the case of liquefied natural gas,

"(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

"(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas."

(c) AMENDMENT RELATED TO SECTION 976 OF 1997 ACT.—Section 6103(d)(5) of the 1986 Code is amended by striking "section 967 of the Taxpayer Relief Act of 1997." and inserting "section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph."

SEC. 609. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1001 OF 1997 ACT.—

(1) Paragraph (2) of section 1259(b) of the 1986 Code is amended—

(A) by striking "debt" each place it appears in clauses (i) and (ii) of subparagraph (A) and inserting "position",

(B) by striking "and" at the end of subparagraph (A), and

(C) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) any hedge with respect to a position described in subparagraph (A) and".

(2) Section 1259(d)(1) of the 1986 Code is amended by inserting "(including cash)" after "property".

(3) Subparagraph (D) of section 475(f)(1) of the 1986 Code is amended by adding at the end the following new sentence: "Subsection (d)(3) shall not apply under the preceding sentence for purposes of applying sections 1402 and 7704."

(4) Subparagraph (C) of section 1001(d)(3) of the 1997 Act is amended by striking "within the 30-day period beginning on" and inserting "before the close of the 30th day after".

(b) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (1) of section 1012(d) of the 1997 Act is amended by striking "1997, pursuant" and inserting "1997; except that the amendment made by subsection (a) shall apply to such distributions only if pursuant".

(2) Subparagraph (A) of section 355(e)(3) of the 1986 Code is amended—

(A) by striking "shall not be treated as described in" and inserting "shall not be taken into account in applying", and

(B) by striking clause (iv) and inserting the following new clause:

"(iv) The acquisition of stock in the distributing corporation or any controlled corporation to

the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease."

(c) AMENDMENTS RELATED TO SECTION 1014 OF 1997 ACT.—

(1) Paragraph (1) of section 351(g) of the 1986 Code is amended by adding "and" at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) if (and only if) the transferor receives stock other than nonqualified preferred stock—

"(i) subsection (b) shall apply to such transferor, and

"(ii) such nonqualified preferred stock shall be treated as other property for purposes of applying subsection (b)."

(2) Clause (ii) of section 354(a)(2)(C) of 1986 Code is amended by adding at the end the following new subclause:

"(III) EXTENSION OF STATUTE OF LIMITATIONS.—The statutory period for the assessment of any deficiency attributable to a corporation failing to be a family-owned corporation shall not expire before the expiration of 3 years after the date the Secretary is notified by the corporation (in such manner as the Secretary may prescribe) of such failure, and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(d) AMENDMENT RELATED TO SECTION 1024 OF 1997 ACT.—Section 6331(h)(1) of the 1986 Code is amended by striking "The effect of a levy" and inserting "If the Secretary approves a levy under this subsection, the effect of such levy".

(e) AMENDMENTS RELATED TO SECTION 1031 OF 1997 ACT.—

(1) Subsection (l) of section 4041 of the 1986 Code is amended by striking "subsection (e) or (f)" and inserting "subsection (f) or (g)".

(2) Subsection (b) of section 9502 of the 1986 Code is amended by moving the sentence added at the end of paragraph (l) to the end of such subsection.

(3) Subsection (c) of section 6421 of the 1986 Code is amended—

(A) by striking "(2)(A)" and inserting "(2)", and

(B) by adding at the end the following sentence: "Subsection (a) shall not apply to gasoline to which this subsection applies."

(f) AMENDMENTS RELATED TO SECTION 1032 OF 1997 ACT.—

(1) Section 1032(a) of the 1997 Act is amended by striking "Subsection (a) of section 4083" and inserting "Paragraph (1) of section 4083(a)".

(2) Section 1032(e)(12)(A) of the 1997 Act shall be applied as if "gasoline, diesel fuel," were the material proposed to be stricken.

(3) Paragraph (1) of section 4101(e) of the 1986 Code is amended by striking "dyed diesel fuel and kerosene" and inserting "such fuel in a dyed form".

(g) AMENDMENT RELATED TO SECTION 1055 OF 1997 ACT.—Section 6611(g)(1) of the 1986 Code is amended by striking "(e), and (h)" and inserting "and (e)".

(h) AMENDMENT RELATED TO SECTION 1083 OF 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amended—

(1) by striking "21" and inserting "20", and

(2) by striking "22" and inserting "21".

(i) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—

(1) Paragraph (3) of section 264(a) of the 1986 Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(2) Paragraph (4) of section 264(a) of the 1986 Code is amended by striking "subsection (d)" and inserting "subsection (e)".

(3) Paragraph (4) of section 264(f) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(E) MASTER CONTRACTS.—If coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract for purposes of subparagraph (A). For purposes of the preceding sentence, the term 'master contract' shall not include any group life insurance contract (as defined in section 848(e)(2))."

(4) (A) Clause (iv) of section 264(f)(5)(A) of the 1986 Code is amended by striking the second sentence.

(B) Subparagraph (B) of section 6724(d)(1) of the 1986 Code is amended by striking "or" at the end of clause (xv), by striking the period at the end of clause (xvi) and inserting "; or", and by adding at the end the following new clause:

"(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts)."

(C) Paragraph (2) of section 6724(d) of the 1986 Code is amended by striking "or" at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting "or", and by adding at the end the following new subparagraph:

"(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts)."

(j) AMENDMENT RELATED TO SECTION 1085 OF 1997 ACT.—Paragraph (5) of section 32(c) of the 1986 Code is amended—

(1) by inserting before the period at the end of subparagraph (A) "and increased by the amounts described in subparagraph (C)",

(2) by adding "or" at the end of clause (iii) of subparagraph (B), and

(3) by striking all that follows subclause (II) of subparagraph (B)(iv) and inserting the following:

"(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.

(C) CERTAIN AMOUNTS INCLUDED.—An amount is described in this subparagraph if it is—

"(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, or

"(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includable in gross income by reason of section 402(c), 403(a)(4), 403(b), 408(d) (3), (4), or (5), or 457(e)(10)."

(k) AMENDMENT RELATED TO SECTION 1088 OF 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is amended by inserting "more than 1 year" before "after".

(l) AMENDMENT RELATED TO SECTION 1089 OF 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section 664(d) of the 1986 Code are each amended by adding ", and" at the end.

SEC. 610. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1103 OF 1997 ACT.—The paragraph (3) of section 59(a) added by section 1103 of the 1997 Act is redesignated as paragraph (4).

(b) AMENDMENT RELATED TO SECTION 1121 OF 1997 ACT.—Section 1298(a)(2)(B) of the 1986 Code is amended by adding at the end the following new sentence: "Section 1297(e)

shall not apply in determining whether a corporation is a passive foreign investment company for purposes of this subparagraph."

(c) AMENDMENT RELATED TO SECTION 1122 OF 1997 ACT.—Section 672(f)(3)(B) of the 1986 Code is amended by striking "section 1296" and inserting "section 1297".

(d) AMENDMENT RELATED TO SECTION 1123 OF 1997 ACT.—The subsection (e) of section 1297 of the 1986 Code added by section 1123 of the 1997 Act is redesignated as subsection (f).

(e) AMENDMENT RELATED TO SECTION 1144 OF 1997 ACT.—Paragraphs (1) and (2) of section 1144(c) of the 1997 Act are each amended by striking "6038B(b)" and inserting "6038B(c) (as redesignated by subsection (b))".

SEC. 611. AMENDMENTS RELATED TO TITLE XII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1204 OF 1997 ACT.—The last sentence of section 162(a) of the 1986 Code is amended by striking "investigate" and all that follows and inserting "investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime."

(b) AMENDMENTS RELATED TO SECTION 1205 OF 1997 ACT.—

(1) Section 6311(e)(1) of the 1986 Code is amended by striking "section 6103(k)(8)" and inserting "section 6103(k)(9)".

(2) Paragraph (8) of section 6103(k) of the 1986 Code (as added by section 1205(c)(1) of the 1997 Act) is redesignated as paragraph (9).

(3) The heading for section 7431(g) of the 1986 Code is amended by striking "(8)" and inserting "(9)".

(4) Section 1205(c)(3) of the 1997 Act shall be applied as if it read as follows:

"(3) Section 6103(p)(3)(A), as amended by section 1026(b)(1)(A), is amended by striking "or (8)" and inserting "(8), or (9)".

(5) Section 1213(b) of the 1997 Act is amended by striking "section 6724(d)(1)(A)" and inserting "section 6724(d)(1)".

(c) AMENDMENT RELATED TO SECTION 1226 OF 1997 ACT.—Section 1226 of the 1997 Act is amended by striking "ending on or" and inserting "beginning".

(d) AMENDMENT RELATED TO SECTION 1285 OF 1997 ACT.—Section 7430(b) of the 1986 Code is amended by redesignating paragraph (5) as paragraph (4).

SEC. 612. AMENDMENTS RELATED TO TITLE XIII OF 1997 ACT.

(a) Section 646 of the 1986 Code is redesignated as section 645.

(b) The item relating to section 646 in the table of sections for subpart A of part I of subchapter J of chapter 1 of the 1986 Code is amended by striking "Sec. 646" and inserting "Sec. 645".

(c) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking "section 646" and inserting "section 645".

(d) Paragraph (3) of section 1(g) of the 1986 Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(e) Section 641 of the 1986 Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(f) Paragraph (4) of section 1361(e) of the 1986 Code is amended by striking "section 641(d)" and inserting "section 641(c)".

(g) Subparagraph (A) of section 6103(e)(1) of the 1986 Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

SEC. 613. AMENDMENTS RELATED TO TITLE XIV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1434 OF 1997 ACT.—Paragraph (2) of section 4052(f) of the 1986 Code is amended by striking "this section" and inserting "such section".

(b) AMENDMENT RELATED TO SECTION 1436 OF 1997 ACT.—Paragraph (2) of section 4091(a) of

the 1986 Code is amended by inserting "or on which tax has been credited or refunded" after "such paragraph".

SEC. 614. AMENDMENTS RELATED TO TITLE XV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF 1997 ACT.—The paragraph (8) of section 408(p) of the 1986 Code added by section 1501(b) of the 1997 Act is redesignated as paragraph (9).

(b) AMENDMENT RELATED TO SECTION 1505 OF 1997 ACT.—Section 1505(d)(2) of the 1997 Act is amended by striking "(b)(12)" and inserting "(b)(12)(A)(i)".

(c) AMENDMENT RELATED TO SECTION 1531 OF 1997 ACT.—Subsection (f) of section 9811 of the 1986 Code (as added by section 1531 of the 1997 Act) is redesignated as subsection (e).

SEC. 615. AMENDMENTS RELATED TO TITLE XVI.

(a) AMENDMENTS RELATED TO SECTION 1601(D) OF 1997 ACT.—

(1) AMENDMENTS RELATED TO SECTION 1601(D)(1)—

(A) Section 408(p)(2)(D)(i) of the 1986 Code is amended by striking "or (B)" in the last sentence.

(B) Section 408(p) of the 1986 Code is amended by adding at the end the following:

"(10) SPECIAL RULES FOR ACQUISITIONS, DISPOSITIONS, AND SIMILAR TRANSACTIONS.—

"(A) IN GENERAL.—An employer which fails to meet any applicable requirement by reason of an acquisition, disposition, or similar transaction shall not be treated as failing to meet such requirement during the transition period if—

"(i) the employer satisfies requirements similar to the requirements of section 410(b)(6)(C)(i)(II), and

"(ii) the qualified salary reduction arrangement maintained by the employer would satisfy the requirements of this subsection after the transaction if the employer which maintained the arrangement before the transaction had remained a separate employer.

"(B) APPLICABLE REQUIREMENT.—For purposes of this paragraph, the term 'applicable requirement' means—

"(i) the requirement under paragraph (2)(A)(i) that an employer be an eligible employer,

"(ii) the requirement under paragraph (2)(D) that an arrangement be the only plan of an employer, and

"(iii) the participation requirements under paragraph (4).

"(C) TRANSITION PERIOD.—For purposes of this paragraph, the term 'transition period' means the period beginning on the date of any transaction described in subparagraph (A) and ending on the last day of the second calendar year following the calendar year in which such transaction occurs."

(C) Section 408(p)(2) of the 1986 Code is amended—

(i) by striking "the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i)" in the last sentence of subparagraph (C)(i)(II) and inserting "the preceding sentence shall not apply", and

(ii) by striking clause (iii) of subparagraph (D).

(2) AMENDMENT TO SECTION 1601(D)(4).—Section 1601(d)(4)(A) of the 1997 Act is amended—

(A) by striking "Section 403(b)(11)" and inserting "Paragraphs (7)(A)(ii) and (11) of section 403(b)", and

(B) by striking "403(b)(1)" in clause (ii) and inserting "403(b)(10)".

(b) AMENDMENT RELATED TO SECTION 1601(F)(4) OF 1997 ACT.—Subsection (d) of section 6427 of the 1986 Code is amended—

(1) by striking "HELICOPTERS" in the heading and inserting "OTHER AIRCRAFT USES", and

(2) by inserting "or a fixed-wing aircraft" after "helicopter".

SEC. 616. AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.

(a) IN GENERAL.—Section 196(c) of the 1986 Code is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7), and insert "and", and by adding at the end the following new paragraph:

"(8) the employer social security credit determined under section 45B(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 617. AMENDMENT RELATED TO TAX REFORM ACT OF 1984.

(a) IN GENERAL.—Paragraph (3) of section 136(c) of the Tax Reform Act of 1984 is amended by adding at the end the following flush sentence:

"The treatment under the preceding sentence shall apply to each period after June 30, 1983, during which such members are stapled entities, whether or not such members are stapled entities for all periods after June 30, 1983."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Tax Reform Act of 1984 as of the date of the enactment of such Act.

SEC. 618. AMENDMENT RELATED TO TAX REFORM ACT OF 1986.

(a) IN GENERAL.—Section 6401(b)(1) of the 1986 Code is amended by striking "and D" and inserting "D, and G".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986.

SEC. 619. MISCELLANEOUS CLERICAL AND DEADWOOD CHANGES.

(a) Section 6421 of the 1986 Code is amended by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking "section 6421(j)" and inserting "section 6421(i)".

(3) Subsections (a) and (b) of section 6421 of the 1986 Code are each amended by striking "subsection (j)" and inserting "subsection (i)".

(b) Sections 4092(b) and 6427(q)(2) of the 1986 Code are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(c) Sections 4221(c) and 4222(d) of the 1986 Code are each amended by striking "4053(a)(6)" and inserting "4053(6)".

(d) Paragraph (5) of section 6416(b) of the 1986 Code is amended by striking "section 4216(e)(1)" each place it appears and inserting "section 4216(d)(1)".

(e) Paragraph (3) of section 6427(f) of the 1986 Code is amended by striking "(e)".

(f) Section 6427 of the 1986 Code, as amended by paragraph (2), is amended by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(2) Paragraphs (1) and (2)(A) of section 6427(i) of the 1986 Code are each amended by striking "(q)" and inserting "(o)".

(g) Subsection (e) of section 9502 of the 1986 Code is amended to read as follows:

"(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

"(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

"(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1)."

(h)(1) Clause (i) of section 9503(c)(2)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking subclause (III), and by redesignating subclause (IV) as subclause (III).

(2) Clause (ii) of such section is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "fuel".

(i) The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 620. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. BUNNING] and the gentleman from New York [Mr. RANGEL] each will control 1 hour.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING].

GENERAL LEAVE

Mr. BUNNING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2676.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. BUNNING. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of the IRS reform bill. It is no secret the IRS is out of control. When agents testified before Congress in hoods out of fear of reprisal, and when honest taxpayers are hounded into bankruptcy, it is time for the Congress to step in and say, enough is enough.

The bill before us today puts some commonsense boundaries around the IRS. By setting up an oversight board of private sector experts, we force this service to move forward into the 21st century. Considering how the IRS has wasted billions on modernizing its computers, and that the year 2000 computer disaster creeps closer every day, the oversight board is incredibly important.

By forcing the IRS, and not the taxpayer, to carry the burden of proof in disputes, we protect legal, law-abiding citizens and end harassing and frivolous claims by maverick agents. By strengthening the confidentiality rules, we make it easier for taxpayers to get professional advice about their returns without having to worry about being tripped up by legal tricks.

Mr. Speaker, I think many people have forgotten that the "S" in IRS stands for "service," government servicing the taxpayers, not the other way around. By passing this bill today, we remind the IRS of its proper role, and about just who is in charge in America: The taxpayer.

Mr. Speaker, I urge support of the bill, and I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2676. I rise in strong support because of the bipartisan nature of the solution of a very serious problem that our Nation faces with the Internal Revenue Service. I do not think anyone can deny that we are basically dealing with a group of dedicated people that do a very difficult job, but a very complex Tax Code that we have given to them. Yet, out of all of this, for whatever reasons, we were able to see vividly during the Senate hearings how certain people in that Service, probably because of lack of direction and governance, were abusing American taxpayers.

Prior to this time there is no question that people in the tax-writing committee, which has the responsibility for oversight, was moving towards reform. But it was the restructuring commission that the gentleman from California [Mr. MATSUI] and the gentleman from Maryland [Mr. CARDIN] and the gentleman from Ohio [Mr. PORTMAN] sat on that actually wrestled with it, took testimony, and came up with ways in which we could enjoy the expertise of the private sector and bring some balance, not only in terms of technology, but in terms of better protecting the taxpayer.

Mr. Speaker, the gentleman from California [Mr. MATSUI] was replaced by Congressman Cohen, and they were able to work together with the administration and come up with a bill. There are some that have said that the administration came to this reform position screaming and scratching and crying, but the truth of the matter is there were many objections in the bill, and these corrections were made by Republicans and Democrats. We come forth with a bill that is not only workable, but desired today.

Let me say on this House floor, which I have said about the chairman, the gentleman from Texas [Mr. ARCHER] before, that Chairman ARCHER had the opportunity to bring that same type of a show to the House of Representatives, to bring a response to an emotional situation, which indeed Members of Congress and the whole country saw.

Instead of doing that, he allowed Members working on this bill to work their will in a bipartisan way and made contributions to perfect the bill, and worked to bring together Democrats and Republicans, not with a workable bill, but with a desired bill. I think it is not only a credit to him, but a credit to the full committee, that we send notice to the Internal Revenue Service that we expect better performance, we expect to provide the oversight, but we do not expect to do it at the expense of the individual workers who are dedicated.

So I support this, and I particularly want to pay tribute to the gentleman from Maryland [Mr. CARDIN] and the gentleman from Ohio [Mr. PORTMAN], who worked with the administration and the leadership in the House, as well as the Committee on Ways and Means,

to bring a bill to the floor that hardly has controversy.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we vote on today will give David, the taxpayer, a bigger slingshot to use against the IRS Goliath. But as proud as I am of this bill, it is just the beginning. Reforming the IRS is a very important first step, but the real culprit behind the scenes is the complexities of the current Internal Revenue Code.

What America needs is a new tax system, one that is fairer, simpler, less intrusive, less costly, and one that creates more economic growth for the American people, because that is what determines the size of the paychecks that families receive in this country. That is the American dream.

Actually, I should say, not just less intrusive. We should have a Tax Code that gets the IRS completely and totally out of the lives of every individual American. I believe we must rip the income tax out by its roots and throw it away, so it can never grow back.

As helpful as this legislation will be to taxpayers struggling with the IRS, I personally will not be satisfied until the tax system itself is repealed. But until that great day comes, this bill will be a valuable helping hand to millions of taxpayers who need and deserve a stronger slingshot.

This bill does three things to protect taxpayers in their dealings with the IRS: No. 1, in America, criminals are innocent until proven guilty, but taxpayers do not receive the same benefit of the doubt. This legislation shifts the burden of proof in court proceedings from the taxpayer to the IRS. No longer will taxpayers have to prove beyond the burden of credible evidence that they are innocent. As a result, taxpayers will benefit from more favorable settlements, even before they ever get to court.

The gentleman from Ohio [Mr. TRAFICANT], like Paul Revere riding in the night, he was the one to first sound the alarm about the burden of proof. Now change is coming, and the gentleman from Ohio [Mr. TRAFICANT] deserves our thanks.

No. 2, we create 28 new taxpayer rights, including the right to sue the IRS for damages caused by negligence of the IRS employees in the collection process. We make it easier for a taxpayer to recover legal fees and costs when the IRS is wrong. We pay 4 million taxpayers higher refunds when the IRS holds up their check, plus we protect thousands of innocent spouses, often divorced women, so they are less likely to be punished by the IRS for mistakes made on their joint returns by their former spouses.

We, for the first time, make the IRS responsible for any rules that they give in writing to taxpayers. Taxpayers now

will be able to rely on anything in writing that they receive from the IRS.

We remove any suspicion that politics will be allowed to enter audit decisions, because we make it a felony for any Cabinet-level official, including the President and the Vice President, to direct the IRS to audit or terminate an audit for any particular taxpayer.

No. 3, if the Department of the Treasury could have fixed the IRS, they would have done so a long time ago. So our bill creates an independent oversight board that includes nongovernmental experts who can bring new thinking and a more taxpayer-oriented culture to the IRS. Like a breath of fresh air, this board will have real power and authority to change the direction of the IRS. No more will we be told, you appropriated \$4 billion for a new computer system, but it does not work. That is intolerable.

Mr. Speaker, the protections provided in this bill go a long way to helping solve peoples' worst problems with the IRS, but as long as our Nation taxes its citizens on the basis of income, it will be impossible to completely fix the IRS. This bill is a strong helping hand, and it is long overdue, but the mission will not be complete until the taxpayers are protected and the IRS becomes nonexistent in the individual lives of all Americans. I look forward to that day.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I rise in strong support of H.R. 2676, the Internal Revenue Service Restructuring Act of 1997. This bipartisan legislation to reform the IRS builds on work of the National Commission on Restructuring the IRS, which was chaired by our colleague, the gentleman from Ohio, [Mr. ROB PORTMAN], and Senator KERREY.

I particularly want to congratulate the gentleman from Ohio, [Mr. ROB PORTMAN], for the leadership he has shown throughout this period in keeping us focused on our objective to bring about a bill that could not only pass, but be signed into law. He did a great job, and I congratulate him on that effort. I am very proud to have joined the gentleman from Ohio in cosponsoring H.R. 2292, which has a strong bipartisan support in this House.

Chairman Archer and the Committee on Ways and Means took a very good bill and made it better. With the strong support in this House and from the President, this bill should be quickly enacted.

I also want to acknowledge the work the gentleman from New York [Mr. RANGEL] and the gentleman from Pennsylvania [Mr. COYNE] did on our side of the aisle, keeping us focused on getting a bill that could enjoy bipartisan support.

I thank the gentlewoman from Connecticut [Mrs. JOHNSON], the chairman of the Oversight Committee, for the

role that she played. I appreciate the role Mr. Kies in the staff did in keeping us focused on getting our job done. There is a lot of credit that should be shared in this legislation.

The legislation before us marks the first fundamental reform in the IRS in nearly a half a century. The problems of the IRS are familiar: billions of dollars squandered on a bungled computer modernization effort, telephones unanswered, taxpayers too often treated with disrespect or suspicion.

These problems have not emerged recently. They are not the legacy of one administration, but of decades. These are not the problems of individual employees. In fact, the employees of the IRS have come forward to help us understand the problem, and they have helped us craft a solution today.

This administration, and particularly Secretary Rubin, have been more attentive to the problems of the IRS and more dedicated to seeking solutions than any in recent years. Secretary Rubin has made important changes in the management of the IRS, and those efforts have begun to show results. But much more remains to be done.

Congressional action is needed in order to ensure that the reforms of the IRS do not depend on any particular individual or administration. The solution proposed in this bill is the creation of an oversight board that will bring private sector expertise in the areas where the IRS needs it the most. The creation of this board, with a real role in the planning and oversight of the strategic plans for major reorganizations in the budget of the IRS, is the most important element in bringing reform to this troubled agency. The board is a permanent entity that will provide continuing oversight for the IRS.

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IRS reform requires not just a new management structure involving a partnership between the board, the Secretary, and the Commissioner, it will also require improved performance by those of us in Congress. Over the long run, we cannot build an IRS that serves the American people unless we write a Tax Code that the IRS can explain and the people can understand.

This bill takes the first step toward tax reform. The bill does not reform our Tax Code but reforms the way we collect revenues. Reform of the practices of the IRS will make it easier for us to concentrate on the underlying problems in the Tax Code itself.

Our tax system is based on voluntary compliance. More than 80 percent of Americans pay their taxes without dispute. An IRS that can answer taxpayer phone calls and provide accurate, reliable information will help us increase voluntary compliance. For the overwhelming majority of Americans who abide by the law and pay their taxes, the IRS should stand for information, respect, and service. Abuse of collection practices must become a thing of

the past. At the same time, the IRS must become a more efficient agency in enforcing laws against those who seek to escape their legal obligations.

Mr. Speaker, the IRS is charged with the vital task of collecting revenues needed to fund the basic and essential operations of Government. When the IRS is mismanaged in the way that it creates fear and anxiety among taxpayers, the result is to undermine the confidence of the American people in their Government. The purpose of this legislation is to reform the IRS so that we can begin to restore that badly damaged confidence.

Today, this body will act in time for the next tax season. The legislation has the support of the administration. I hope the other body will follow the leadership of this House and enact meaningful IRS reform in order to help the taxpayers of this Nation.

Mr. Speaker, I rise in strong support of H.R. 2676, the Internal Revenue Service Restructuring Act of 1997. This bipartisan legislation to reform the Internal Revenue Service builds on the recommendations of the National Commission on Restructuring the IRS, which was chaired by our colleague, Representative PORTMAN and Senator KERREY.

I am very proud to have joined Representative PORTMAN in cosponsoring H.R. 2292, which has had strong bipartisan support in this House. Chairman ARCHER and the Ways and Means Committee took that very good bill and made it better. With strong support in this House and from the President, this bill should move quickly to enactment.

The legislation before us marks the first fundamental reform of the IRS in nearly half a century. It will bring a new structure to the IRS, a structure that is designed to change the way the IRS treats its customers, the American taxpayers.

The problems at the IRS are familiar—billions of dollars squandered on a bungled computer modernization effort, telephones unanswered, taxpayers too often treated with disrespect or suspicion. These problems have not emerged recently—they are not the legacy of one administration, but of decades. These are not the problems of individual employees. In fact, the employees of the IRS have come forward to help us understand the problem, and they have helped us craft the solution today.

This administration, and particularly Secretary Rubin, has been more attentive to the problems of the IRS and more dedicated in seeking solutions than any in recent years. Secretary Rubin has made important changes in the management of the IRS, and those efforts have begun to show results.

But much more remains to be done. Congressional action is needed in order to ensure that reform at the IRS does not depend on any particular individual or administration.

The solution proposed in this bill is the creation of an oversight board that will bring private sector expertise in the areas where the IRS needs it most. The creation of this board, with a real role in the planning and oversight of the strategic plans, major reorganizations, and the budgets of the IRS, is a most important element in bringing reform to this troubled agency. The board is a permanent entity that will provide continuing oversight of the IRS.

IRS reform requires not just a new management structure, involving a partnership between the board, the Secretary, and the Commissioner. It will also require improved performance by those of us in Congress.

Legislative oversight of the IRS is too unfocused, with too many masters and not enough coordination among committees. The bill attempts to bring some order and structure to the current system. Over the long run, we can't build an IRS that serves the American people unless we write a Tax Code that the IRS can explain and the people can understand.

This bill takes the first step toward tax reform. The bill does not reform our Tax Code, but it reforms the way we collect revenues. Reform of the practices of the IRS will make it easier for us to concentrate on the underlying problems in the Tax Code itself.

A big part of the problem with the IRS is the agency's inability to provide taxpayers with accurate information regarding their tax status. This simply has to stop, and this bill will help.

Our tax system is based on voluntary compliance. More than 80 percent of Americans pay their taxes without dispute. An IRS that can answer taxpayer's phone calls, and provide accurate, reliable information, will help increase voluntary compliance.

For the overwhelming majority of Americans, who abide by the law and pay their taxes, the IRS should stand for "Information, Respect, and Service." Abusive collection practices must become a thing of the past. At the same time, the IRS must become a more effective agency at enforcing the law against those who seek to escape their legal obligations.

In addition to the governance and oversight provisions, the bill contains a new set of provisions to be added to the Taxpayer Bill of Rights. The provisions address many problems that taxpayers have encountered in dealing with the IRS, and their enactment will help solve those problems.

I would add, however, that the broader objective of this bill must be to change the culture of the IRS to make it a taxpayer-friendly organization so that future Taxpayer Bills of Rights will not be necessary.

Mr. Speaker, the Internal Revenue Service is charged with the vital task of collecting the revenue needed to fund the basic and essential operations of Government. When the IRS is mismanaged in ways that create fear and anxiety among taxpayers, the result is to undermine the confidence of the American people in their Government. The purpose of this legislation is to reform the IRS so that we can begin to restore that badly damaged confidence.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Speaker, I thank the chairman for yielding me this time.

I rise in strong support of this bill. I congratulate the chairman, and I congratulate also my colleague, the gentleman from Ohio [Mr. PORTMAN], for all the hard work and dedication that he has brought to this issue and, with him, the gentleman from Ohio [Mr. TRAFICANT] who has long championed this cause and kept our feet to the fire.

It should not be difficult to convince any of my colleagues in this body that

the IRS needs to be reformed. Each and every one of us provides case work to our constituents, and we have all heard the numerous, tragic horror stories about how the IRS has unfairly treated honest, hard-working taxpayers. I could go on and on and enumerate those stories, but I do not have to; we have all heard the same ones.

Mr. Speaker, no one here is claiming that H.R. 2676 is a panacea for our ailing tax system. It does not abolish the IRS or scrap the Tax Code, as many of our constituents would like. But until we do that, and we will do that, this bill takes a step toward installing a modicum of fairness into a system for those who are simply forced to comply with the Tax Code's painful provisions.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. CAMP].

(Mr. CAMP asked and was given permission to revise and extend his remarks.)

Mr. CAMP. Mr. Speaker, I rise in strong support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997. Our bill boils down to one simple fact—the taxpayer should be treated like a customer, not a criminal. Shouldn't a customer be able to expect an answer from a telephone hotline? Well, the General Accounting Office found that in 1996, only 21 percent of calls to the IRS were even answered. One-half of the 22 percent error rate on paper 1040 forms is due to IRS employee error—IRS employees inputting the wrong numbers and data. If the IRS were a private company, it would have gone bankrupt years ago. H.R. 2676 is an important first step in reforming our tax system. It focuses on three things: first, we shift the burden of proof to the IRS. In the United States, you're considered innocent until proven guilty. But not with the IRS—the taxpayer bears the burden of proving himself innocent. Our bill changes that.

Second, we give taxpayers the right to sue the IRS for damages caused by negligence, and other important rights like protections for an innocent spouse whose ex-husband or ex-wife engaged in tax abuse. Finally, we bring new thinking and a more customer-oriented culture to the IRS, with a private board to give direction and leadership to the IRS.

The bill we are debating today is the first step. The bigger problem is a tax code gone wild, full of complexity and ambiguity. That tax code, with over 17,000 pages of IRS laws and regulations, leads to many of the problems the IRS faces today. With 480 tax forms and 280 forms to explain the forms, it's no wonder the taxpayer is often confused. Businesses spend on average each year 3.6 billion manhours filling out and complying with tax forms. American individuals spend 1.8 billion hours filling out tax forms. That is simply unacceptable. I look forward to continuing our work of reforming our tax system.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. GRANGER].

Ms. GRANGER. Mr. Speaker, I rise today in strong support of the IRS Restructuring and Reform Act of 1997. This simple proposal will help make the IRS more efficient in its operations and more accountable to its boss, the people.

Recent hearings in the Senate have only confirmed what millions of Americans have always known, the IRS is outdated, out of touch, and out of control. Today we can bring to a vote two simple changes to the way the IRS does business. These are not radical changes. They are reasonable steps toward accountability and fairness.

First, this bill will put an oversight board of citizens in charge of reviewing the IRS. In our system of checks and balances, this is a much needed and long overdue check on the IRS.

Second, this bill will bring the IRS into the American way of dealing with the American people. We all know that our criminal justice system tries to ensure fairness by presuming that the accused are innocent until proven guilty, so why is it the IRS files charges against you or your company, you are considered guilty until proven innocent? In other words, a common criminal is presumed innocent until proven guilty when he has his day in court but the rest of us are guilty until proven innocent in Tax Court. Today we can change this, Mr. Speaker. Let us give the taxpayers the benefit of the doubt and the tax collectors the burden of proof.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a respected member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I thank the chairman for yielding me the time.

It is stunning, but the IRS is the only place in the American system of law where a citizen is guilty until proven innocent. Traditionally, the taxpayer, when notified by the IRS that his tax payments failed, in their view, to satisfy his tax obligation, carried the burden of proof in demonstrating that his tax payment is accurate. The presumption is for the IRS and against the taxpayer. In my view, this is just plain wrong.

This legislation addresses that issue. This legislation, which is based on the recommendations of the Committee on Ways and Means, Subcommittee on Oversight, creates 28 new taxpayer rights essential to restoring to the individuals a sense of fairness in their dealings with the IRS. In my view, the most important of these is a shift in the burden of proof from the taxpayer to the IRS in any court proceedings where factual information is disputed.

Let me be clear about this. The taxpayer is still required to cooperate. The taxpayer is still required to provide the information which is in the taxpayer's control. But those taxpayers who do cooperate and who provide all the necessary information see a shift back in an appropriate way in the burden of proof. From my standpoint, this will dramatically restore fairness in this situation.

Also, H.R. 2676 creates an independent citizen board to hold the IRS accountable for change. The IRS sees a

variety of new taxpayer rights, including a right to sue the IRS for negligence, a right to know when you are being audited and why, and expanded rights for citizen spouses.

This legislation is so important to move us forward to change the system, to change the IRS in a way that I think is very fundamental. I support this legislation. I am excited about it. I appreciate the chance, Mr. Speaker, to rise in support of it.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GREEN].

(Mr. GREEN asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, I thank my ranking member of the Committee on Ways and Means, not only for the time this morning but also for the effort on this piece of legislation. I know it is a very bipartisan piece of legislation because about 2 weeks ago the President agreed to sign onto it. Even before that, there were a lot of Democrats who were interested in the issue, particularly shifting of the burden of proof, cosponsors of a bill by a Democratic Member, our colleague, the gentleman from Ohio [Mr. TRAFICANT].

The bill is a good effort because, one, it transfers the burden of proof to the IRS and again makes it fair for the taxpayer that they would know, going into the Tax Court, that the IRS has to show that someone is actually violating the law on taxes.

Also, I think it is important because the President will continue the appointment of the commissioner. Even though we have an advisory board with some authority, we need to have an elected official. With the President being the one that does it with authority over the IRS, we do not need to delegate that to an appointed board because so often in any level of government, whether it be Federal, State, or even local government, the elected official needs to have the final version, the buck stops at the office of the President. And I think this is good because it leaves that authority in appointing the IRS commissioner with the White House and with the person, whoever the President may be. That is important.

I think because of the hearings in the Senate last week or over the last 2 weeks, again, it is not something new. I know the gentleman from Texas [Mr. ARCHER] knows it, a long time member of the Committee on Ways and Means, knows that this issue will, if we address it today, 2 years from now we may have to do it again. That is the way Government works. We try and correct problems now, and we will fix them again if we have to, whether it be next year or the year after.

That is why Congress is in session, to correct problems for the people that we represent. That is why I think this bill is a good bill. I hope we can pass it both through the House and Senate and get it signed by the President.

Mr. PORTMAN. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. Mr. Speaker, I want to thank the chairman of the full committee and the gentleman from Ohio [Mr. PORTMAN] for the hard work that they have done on this important issue.

When this first started being debated, a lot of the liberal cynics out there said that it is just one of those things that the Republican leadership is doing to drum up support among their base. Then they started hearing the stories, and as more and more of the stories unfolded, people started believing we have a problem in this country with respect to the IRS.

This is a first bold, dramatic step, I think, in what I hope will be a long journey that will end up with reforming the Tax Code, which is at the crux of what our problem is in this country. But this proposal today makes important reforms that, for the first time in 45 years, we are doing something to reform the IRS and giving citizens, the people who have to pay the taxes, more input into this process.

I think it is an important, as I said, first step which allows for more input at the grass roots level for the people who have to abide by the tax laws that we make in this country. I hope it will be the first step in what will be a long journey toward reforming the Tax Code in this country. I am delighted to see the bipartisan support for this. I think that we will pass it with a huge vote and hopefully get on with the business of reforming the Tax Code.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. WEYGAND].

(Mr. WEYGAND asked and was given permission to revise and extend his remarks.)

Mr. WEYGAND. Mr. Speaker, I want to thank our ranking member, the gentleman from New York [Mr. RANGEL], and the gentleman from Ohio [Mr. PORTMAN], and the chairman of the Committee on Ways and Means for bringing this before us.

As a Democrat and as a former small business owner, I can tell my colleagues, the people that are out there for this kind of reform are begging for this reform. This is a wonderful, very prospective, very proactive kind of legislation that will help many people.

I remember many of my colleagues in the small business community talking about the problems they had with the IRS. These are people that are solid citizens, people that are paying their taxes and that, when an IRS agent walks into their office, all of a sudden they become guilty without ever having a chance to prove their innocence. They have to go out there and actually reverse what we have considered for many years the basics of the United States justice system, and that is, you are innocent until proven guilty.

One small business owner came to me and said, an agent came into my office

one day unannounced, requested of me to write out a check for \$2,000, wanted a copy of the form that I filed with the IRS. And I grabbed all my papers, I put them all together, and I felt awkward in front of all my employees, he said, I had to go down to the IRS office.

When I got down there, I showed them a copy of the form that I had filed on time, I showed them a copy of the check that I had paid with their stamp on the back side, yet they went through that entire record. I felt like a criminal when I was simply just trying to do business the proper way and pay my taxes on time.

This bill will change that. This will make sure that the honest citizen, the citizen that is out there, is going to have a fair chance. It will not give up any of the rights that they presently have under the present jurist system, and it will give them the kind of reform that we need, not because we are Democrats or Republicans but because we are honest people that believe in paying our taxes, but we also believe we should have a fair shake.

I applaud the ranking member. I applaud the chairman. This is long overdue. This is something we all should support. I encourage the support of all my colleagues.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS], a colleague of mine on the Committee on Ways and Means.

□ 1215

Mr. COLLINS. Mr. Speaker, I thank my colleague the gentleman from Ohio [Mr. PORTMAN] for yielding me this time and for his hard work in this area of restructuring the IRS.

Since being in Congress for the last 5 years, I have had a lot of inquiries from constituencies about problems they have had and told me about experiences they have had with IRS. Just recently, I held a townhall meeting in Columbus, GA, where we invited in some of the constituency to talk about some of their personal experiences and also to have some input and ideas as to how they felt like the IRS could better handle their situation.

It was a very enlightening townhall meeting, one of the best we ever held. But it was also one that did not come to bash the IRS, it just came with ideas and experiences and some suggestions. We even had an accountant in that talked about the IRS, and not in a bad way, but in a way that he felt would be constructive as we put together this bill to restructure the IRS.

Also, he mentioned the complexity of tax codes and how the complexity of the tax codes also is causing a lot of problems, not only for our constituency, but also for the Service itself that has to administer the collection of funds that we use to operate this Government.

We are taking this from the top down, looking at the management of the IRS and how the management is structured. Hopefully, that will have a

change in attitude all the way through the Service, all the way down to those who answer the telephone, oftentimes after going through long steps of different types of answering services to get to a real live person to talk to.

But we have hopes that that attitude will change and that our constituency will be better handled and better served through our representatives at the IRS. Also, as mentioned by several people who were not at the meeting but have spoken to me personally about the IRS and about the employee and the attitude and structure comes the suggestion that we also need to look at how we hire, the hiring practices at the IRS, as well as other areas of the Government, and that we hire people who are competent, who are dedicated to serving the individuals in the constituency and not just hiring people to fill slots.

I fully support restructuring the IRS.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COYNE], who served on the IRS restructuring committee. He has made such a great contribution to getting this bill to the floor.

(Mr. COYNE asked and was given permission to revise and extend his remarks.)

Mr. COYNE. Mr. Speaker, I rise today in support of this legislation, which will make important reforms in the operation and management of the Internal Revenue Service.

There is broad consensus on the need for significant changes in the IRS operation and management. The vast majority of the provisions of the McCrery-Portman-Cardin bill are noncontroversial. There has been disagreement, however, about one provision in an earlier version of this bill, and that is whether an oversight board composed primarily of private sector appointees should be given substantial control over the agency and the IRS Commissioner, himself or herself.

Negotiations between the administration and Congress over the past few months produced a compromise in which the President retained the authority to appoint and fire the IRS Commissioner and in which the oversight board and the administration would each submit an IRS budget to Congress.

As a result of these changes, H.R. 2676 was reported out of the Committee on Ways and Means with broad bipartisan support. I want to commend Secretary Rubin and the members of the Committee on Ways and Means for all of their hard work on legislation over the past few months.

I believe that this bill, if enacted, taxpayers will experience a fairer, more efficient and more responsive IRS in the coming years. I urge support for H.R. 2676.

Mr. Speaker, I rise today in support of this legislation, which will make important reforms in the operation and management of the Internal Revenue Service.

When I was appointed to the National Commission on Restructuring the IRS, I was well

aware of the problems at this agency. As a member of the House and Ways and Means Committee, I had sat through many hearings on IRS reform over the years. There was, in fact, a very broad consensus among Ways and Means Committee members and members of the IRS Restructuring Commission on the need for significant changes in IRS operations and management.

We all agreed on the need for greater flexibility linked with greater accountability, as well as greater reliance on outside sources of expertise and technological know-how. The vast majority of the Commission's recommendations reflected this broad consensus.

There was disagreement among Commission members, however, about one recommendation in particular—whether an oversight board composed primarily of private sector appointees should be given substantial control over the agency and the IRS Commissioner. The majority of Commission members supported creating a board of directors that would have the authority to hire and fire the IRS Commissioner, and which would approve the agency's budget and strategic plans. A number of Commission members, myself included, thought that such a change would have the unintended effect of actually reducing the accountability of the IRS. We also believed that investing the authority over the IRS budget and strategic planning in a board dominated by private sector individuals could raise serious questions about conflicts of interest between board members public responsibilities and their private sector employers' interests.

As the legislation introduced by Senator KERREY and Representative PORTMAN, which reflected the Commission's recommendations, was considered by the Ways and Means Committee, public discussion of this bill focused on this one controversial provision in the bill—the issue of what authority the oversight board should have. The vast majority of the provisions in the Kerrey-Portman bill were noncontroversial.

Negotiations between the administration and Congress on the powers of the oversight board continued almost until the Ways and Means Committee markup of this bill began, but these negotiations eventually produced a compromise in which the President retained the authority to appoint and fire the IRS Commissioner, and in which the oversight board and the administration would each submit an IRS budget to Congress. As a result of these changes, H.R. 2676 was reported out of the Ways and Means Committee with broad bipartisan support.

I believe that enactment of this legislation will improve IRS operations and management significantly. The bill contains a number of important provisions, including language expanding congressional oversight and measures intended to promote electronic filing of tax returns over the next 10 years. The bill also includes a taxpayers' bill of rights section which contains a number of provisions to prevent or discourage abusive behavior by IRS employees, to clarify and codify the protections available to taxpayers in proceedings with the IRS, and to provide relief for innocent spouses of tax cheats.

In closing I want to make one additional point. In the course of debate over this legislation, many Members have succumbed to the temptation to bash the IRS. I think that such attacks are unfair, inappropriate, and irrespon-

sible. Clearly, there have been problems at this agency, but it is important to point out that the IRS Restructuring Commission found no evidence suggesting that those abusive practices were widespread—or even very common.

The IRS is responsible for enforcing the compliance of more than 100 million taxpayers with a complex Tax Code. The agency processes over 200 million forms a year and administers gross receipts of roughly \$1½ trillion. The congressional hearings on IRS abuses produced 2,000 claims of IRS excesses nationwide. While no abuse is acceptable, I think that we need to look at these cases in the context of the agency's overall performance, which is impressive. Our income tax system relies on voluntary compliance. Our compliance rate is over 80 percent. We have the lowest effective tax rate of any of the major industrialized nations. I think that those facts should be considered as well.

Finally, to the extent that the IRS went too far in certain cases in seeking to maximize revenue, we should not place all of the blame on the IRS. Congress has, in no small way, pressured the IRS to maximize revenues—and Congress has insisted that IRS adopt the types of performance measures that apparently drove IRS field offices to excess in certain circumstances. In the end, Congress must tell the IRS how it should balance the often competing concerns of productivity and fairness.

I want to commend Secretary Rubin and Representatives PORTMAN, JOHNSON, and RANGEL for all of their hard work on this legislation over the last few months. I believe that if this bill is enacted, taxpayers will experience a fairer, more efficient, and more responsive IRS in the coming years.

I urge my colleagues to support H.R. 2676.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MCCRERY], a member of the Committee on Ways and Means.

(Mr. MCCRERY asked and was given permission to revise and extend his remarks.)

Mr. MCCRERY. Mr. Speaker, I rise today to do two things. No. 1, praise the IRS Reform Act that we will pass today; and No. 2, tell my colleagues and the country that, while this is certainly a good bill, it will offer only slight relief from the burden that the real culprit, our Tax Code, places on our people and their work.

First the praise. This is indeed an excellent piece of legislation constructed by two of the most able members of the Committee on Ways and Means, the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN], and the gentleman from Texas [Mr. ARCHER], our excellent chairman.

This legislation will make the IRS more accountable by creating an independent oversight board. It would also establish several important taxpayer rights, such as the ability to sue for legal fees when the IRS is wrong and shift the burden of proof in tax court from the taxpayer to the IRS. Finally, this legislation includes measures to ease the transition to electronic filing of taxes, thus relieving some of the burden on small businesses.

Mr. Speaker, the admonition is that this is not enough. As long as we have the complex Tax Code that we have, no amount of IRS reform will be sufficient to relieve the costly burden of compliance. Let me share with my colleagues a few numbers.

Thirty-six. That is the number of times the paperwork received each year by the IRS would circle the Earth. Five and a half million. That is the number of words in our Tax Code and the regulations. It is nearly seven times longer than the Bible. Five billion, 400 million. The number of hours Americans spent complying with Federal tax forms. One hundred fifty-seven billion. That is the number of dollars spent by the private sector to comply with income tax laws.

Mr. Speaker, I am glad we are going to pass this badly needed IRS reform bill. It is a great piece of legislation. But, Mr. Speaker, we ought not to leave here today thinking that we have done all that needs to be done to relieve our citizens of the crushing burden our current tax system places on them. That burden will not be lifted until we throw the Tax Code in the trash can and start all over, until we create a fairer, simpler tax system for everyone.

Mr. RANGEL. Mr. Speaker, I yield myself 30 seconds to respond to the previous speaker.

I want to agree with him that this Tax Code that we have is very complicated, and I think that not only taxpayers, but people on both sides of the aisle would like to do something with it. But he should be reminded that, for the last 3 years, his party really has been in charge of the Tax Code. So I hope he is proud of what they have produced during these 3 years. And every Democrat would like to join with him in trying to reform it.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. TANNER].

(Mr. TANNER asked and was given permission to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, I want to thank the gentleman from Texas [Mr. ARCHER] and the gentleman from New York [Mr. RANGEL] and the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN] and others who worked so long, and I want to thank the gentlewoman from Washington [Ms. DUNN] in a few minutes.

But let me just say at the outset that the tax man has been and will continue to be an easy target since Biblical times. The fact is that the function of the IRS is necessary. Its sole purpose is to collect taxes. No one likes to pay taxes, so their anger is projected upon those who do the collecting.

We have to have taxes to fund the vital and necessary functions of the Government, defense, interstate highways, food inspection, public health, FAA, and other missions that only the Government can and must do for all of us. We cannot change the function or

the nature of the work the IRS performs, but we can change the approach.

The IRS has not been reformed in over 40 years. Currently, it seems to many of us, that the emphasis of the IRS is on collection at all costs by any means necessary. As a result, the IRS is antiquated, less responsive, more aggressive with a persona akin to private-sector collection agencies. The IRS needs a makeover to reshape their image, and they need fresh, new, innovative ideas and new vision. We seek to do that today.

We need to transform the IRS from a collection agency to a taxpayer customer-oriented agency which values individual taxpayers and citizens and treats them with respect and dignity and not just as a number.

To accomplish this, many of us believe we need to look to the private sector for vision and direction. This bill accomplishes that objective. Also, included in the measures are an expanded taxpayers bill of rights, which the gentlewoman from Washington [Ms. DUNN] and I introduced to end fishing expeditions, curb IRS summons authority to provide greater protection for taxpayer information, and to require the IRS to demonstrate just cause to pursue an audit.

Mr. Speaker, I urge support for H.R. 2676.

Mr. PORTMAN. Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I just want to use 30 seconds to respond to my friend the gentleman from New York [Mr. RANGEL], who pointed out that Republicans have been in control for the last 3 years.

That is true. Democrats were in control for 40 years prior to that, and most of the complexity was built under their tenure. However, I do hope that the gentleman from New York [Mr. RANGEL] will join with me and others who agree that the Tax Code is too complex and promote overall tax reform for this country. It is in all of our interests to do that.

Mr. RANGEL. Mr. Speaker, I yield myself 30 seconds.

We are trying desperately hard to keep partisanship out of this. But if it is going to take my colleagues 37 more years to simplify the tax system, then I do not think the taxpayers are going to get much relief.

It just seems to me that it should not take 3 years to get what we would want done and it would be more like 3 months. So let us say next year we are going to do it, we are going to come up with something and in a bipartisan way work together with the way the gentleman from Ohio [Mr. PORTMAN] has found so easy to work with we Democrats on this bill.

Mr. Speaker, I yield 1½ minutes to the gentleman from North Carolina [Mr. ETHERIDGE].

Mr. ETHERIDGE. Mr. Speaker, I thank my friend the gentleman from New York [Mr. RANGEL] for yielding me the time.

I rise today in support of this bill to reform the IRS service. I want to thank my friend the gentleman from New York [Mr. RANGEL], the gentleman from Maryland [Mr. CARDIN] and the gentleman from Texas [Mr. ARCHER] for their leadership in this important issue.

When the people of the Second District of North Carolina sent me to this body, they wanted an advocate, someone who would stand up for them in the people's House. And I am pleased to support this piece of legislation on behalf of the people of my district. Working families in North Carolina and across this country face enough challenges in their lives without the added burden of the things we have heard about in recent months of certain members of the IRS who are out of control. If a criminal has a right to be presumed innocent before the courts, so should the American taxpayers.

The Congress has taken a strong bipartisan step forward in working for American families and can do it by enacting the first comprehensive reform of the IRS since 1952. The IRS reform bill, H.R. 2676, is based on an aggressive 3-point plan, which shifts the burden of proof from the taxpayer to the IRS, creates 28 new taxpayer rights, and overhauls the management of the agency through the creation of an independent board.

Mr. Speaker, I would urge Members on both sides of the aisle to move forward for the hard-working families of America.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Ms. DUNN], who added some valuable provisions in the taxpayer rights section of this legislation.

Ms. DUNN. Mr. Speaker, I must say we are delighted that in only 3 years of holding the majority, we have been able to put together a bipartisan piece of legislation that shows real listening to our constituents and results in upgrading and making much more positive the IRS.

Throughout my tenure in Congress, I have heard from thousands of constituents who have talked to me about numerous problems they have had with our system of taxation and particularly with the IRS. The theme has been the intrusive and sometimes abusive interference of the Internal Revenue System when taxpayers were only trying to be honest.

One of my constituents, Mr. Speaker, was told by the IRS that his wife was dead even though he produced his wife and her doctor before a local IRS agent. Another constituent, a local businessman, was forced to undergo a costly, long-lasting audit by the IRS because of a supposed discrepancy of 65 cents, only to find out that the IRS was wrong.

This agency operates too often, Mr. Speaker, under the belief that taxpayers are trying to cheat the Government. The bill that we propose today is the first step in providing citizens

greater tax fairness, protections from the abuse of the IRS. Our bill includes provisions proposed by the gentleman from Tennessee [Mr. TANNER] and myself for an increased confidentiality protection for taxpayers and for the tax advice that they receive from their advisers. Currently, the IRS can subpoena even the thought process of a taxpayer unless that taxpayer is represented by an attorney.

Our bill also reins in the lifestyle audits that can currently be initiated by something as simple as a new car in the driveway unless there is reasonable indication of unreported income. So no more fishing expeditions.

Mr. Speaker, while the language in the bill is not as broad as we proposed, and in our particular proposals the gentleman from Tennessee [Mr. TANNER] and I will continue through this bill into the next year to ensure that every taxpayer is afforded confidentiality protections currently enjoyed by only those who can afford attorneys and those who through this new legislation can afford an accountant.

We intend to make it clear to the IRS and the courts that Congress does intend for them to be limited to the scope of their information gathering ability. I encourage support of this bill.

□ 1230

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Speaker, I was walking down the sidewalk in a small town in my district recently, and an older woman in a wheelchair called to me. I went over and sat down and talked with her for a while. During the course of that conversation, she said to me, "Congressman, I wish you would just chew up the IRS and spit it out." I asked that sweet, gentle, older woman why she felt as strongly as she did, and she said, "I believe the IRS contributed to my husband's death because they hounded him," and she said, "It didn't bother me as much as him because I'm a tough old bird."

I walked away thinking that it is sad that any American would ever feel that way about an agency of our Government. And so I came to the floor today mostly to say thank you to my Ohio colleague [Mr. PORTMAN] for all the work he has done on this. I know many have worked on this legislation. This may be the most significant piece of legislation directly affecting the lives of American citizens that this Congress deals with.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HERGER], a member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, today I rise in strong support of H.R. 2676, the IRS Restructuring and Reform Act. In town hall meetings throughout my northern California congressional district and wherever I go, I hear from taxpayers who are fed up with IRS abuses and who are demanding Con-

gress to take steps to reform this agency. Today we move forward with strong bipartisan legislation that will not only reform the way the IRS does business, but will also restructure the agency to help assure that taxpayers are better protected from IRS abuses in the future.

This legislation makes a number of important changes. First, it shifts the burden of proof from the taxpayer to the IRS in disputed tax cases that reach U.S. Tax Court. No longer will taxpayers be considered guilty until they are able to prove themselves innocent.

Second, this bill expands taxpayer rights by providing citizens 28 new legal protections against the IRS. When taken together, these 28 new taxpayer rights will shift the IRS's primary focus from heavy enforcement to customer service.

Finally, this bill will establish a more accountable IRS oversight structure. This new board, which will bring to the IRS outside expertise, will assist in fundamentally changing the culture and management of the IRS.

The gentleman from Texas [Mr. ARCHER], the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN] are to be commended for their efforts on IRS reform. I would urge my colleagues to support this common-sense yet long overdue legislation.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA], a member of the Committee on Ways and Means.

Mr. KLECZKA. Mr. Speaker, I thank the gentleman from New York for yielding me this time to speak on the IRS Restructuring and Reform Act of 1997. As a member of the Committee on Ways and Means, I was pleased that we were able to formulate a bipartisan bill that will benefit all American taxpayers.

I must say that I have had several conversations with the gentleman from Maryland [Mr. CARDIN] and also the gentleman from Ohio [Mr. PORTMAN] on the bill, and I was quite surprised that we were able to work together to come to this day.

One of the most difficult hurdles in formulating the legislation was determining the structure and responsibilities of the oversight board. I had strong reservations and concerns about the IRS Restructuring Committee's recommendation that the board made up of private individuals have the power to hire and to fire the IRS commissioner. Fortunately, a workable compromise was made that gives the oversight board significant input into the workings of the IRS, but keeps the appointment of the Commissioner in the hands of the President.

This bill also contains some important provisions protecting the rights of taxpayers. For example, innocent spouses will now have an easier time of attaining this protective status. In addition, attorney/client confidentiality

privileges are being extended to protect taxpayers who choose to confide with their certified tax preparer, their certified public accountant. Finally the burden of proof for taxpayers who cooperate in IRS proceedings will now fall to the IRS should the case go to court.

These are some of the changes that should make dealing with the IRS much easier. Today we are moving forward with the legislation that sends a strong message to all our constituents. We have heard your frustrations with the IRS, and we are taking actions to right these wrongs.

Mr. PORTMAN. Mr. Speaker, I enjoyed working with the gentleman. We did have a lot of good, constructive conversations, and the gentleman helped to make it a better bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PAUL].

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise in support of this legislation. It is a step in the right direction. Get rid of the Code, get rid of the IRS, and get rid of the income tax.

Mr. Speaker, I rise in tepid support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997. As most recently evidenced by Senate hearings, taxpayers across the country are clamoring for real reform. Yet, instead of delivering genuine reform, the Congress delivers an Oversight Board made up, in part, of experts from the fields of management, customer service, Federal tax laws, and information technology—in other words, more guards to oversee the watchdogs.

I can support this bill because it partially shifts the burden of proving guilt from the taxpayer to the Government. Innocent until proven guilty is a tenet that permeates any free society but has somehow been ignored with respect to the Internal Revenue Service's imposition of criminal penalties. Additionally, this bill makes political audits by executive branch officials felonies punishable by fine and/or imprisonment.

While these small steps are laudable, in light of the massive nature of the problem, the complexity of the Tax Code, and the oppressive nature of the excessive taxation under which we are currently so heavily burdened, this bill is but token reform. The current taxation problem is rooted in the excessive spending by Government resulting from a bad case of congressional activism under which the legislative body has repeatedly overstepped its article I, section 8, constitutional powers.

No one likes to pay taxes—almost. The large majority of people in any society enjoy the benefits that come to them through Government programs, yet, essentially no one likes to have their taxes increased, believing they are always on the short end of receiving benefits in return. And this of course is true. The most people never get back what is taken from them in the form of taxes.

Oliver Wendell Holmes, however, was different. He claimed he likes to pay taxes saying: "I like to pay taxes. With them I buy civilization." In a more famous quote, Holmes said:

"Taxes are what we pay for civilized society." A more accurate statement might be that taxes, especially if collected with the tactics of the IRS, are what permits Governments to act in a most uncivilized manner.

Teddy Roosevelt, during the Progressive era, 1902, appointed Oliver Wendell Holmes, Chief Justice of the Supreme Court, a time during which the ground work was laid for the modern welfare state later promoted by Teddy's cousin FDR. And it was not too many years after the appointment of Oliver Wendell Holmes to the Supreme Court that these progressive ideas led to the establishment of the income tax, the IRS, and an equally threatening organization, the Federal Reserve.

Frank Chadorow had a much better understanding of what the income tax meant. "Income taxation is in principle the worst of all forms of taxation because it begins by asserting the prior right of the state to all wealth." This principle can be applied to almost all taxes. A tax on inheritance could be considered even worse since we accumulate property and capital often with after taxed money. Since all taxes are essentially a tax on productive effort, whether it be corporate tax or even a sales tax, this principle is certainly accurate when the revenues are used for redistributive purposes.

I see nothing wrong with the slogan "taxation is theft," when the revenues are used to transfer wealth or privilege from one group or person to another. In spite of all the talk in recent months regarding the method of taxation and the abuse by the IRS these basic principles are not being discussed. There has been too much emphasis placed on the taxing process rather than the philosophical principles that not only endorse but encourage an abusive tax system.

The recent Senate hearings on IRS procedures however were very beneficial in that they were reported by the major media and confirmed what most Americans suspected. Probably the most outrageous confirmation was that IRS agents did confess to a deliberate policy directed toward the weak and the poor to intimidate and make examples of them. Agents testified that the wealthy and the sophisticated were generally left alone because they were more capable of defending their rights. This is an outrage that should not be forgotten and should be used as a strong motivation to eventually do something about our tax system.

The fact the some citizens have even committed suicide over the pressure of facing the tax collectors is something that should not ever happen in the civilized society that Holmes claimed we were paying for. Thousands of Americans are quite willing to pay the penalties and excess tax without challenging the Government even when they know they are right because the emotional and financial penalty of fighting the IRS is too great.

For the last four decades it has become known to most Americans that both Republican and Democratic administrations have been willing to use the IRS, and for that matter other regulatory agencies, to punish their political enemies. It seems that the current administration has refined this technique to near perfection. It has been quite willing to attack, through the Tax Code, those foundations and groups that oppose Clinton's policies while ignoring the friendly ones.

If we indeed lived in a truly civilized society individuals would be willing to come forth and

reveal the Government's atrocities against its own people instead of choosing to hide their identity. The fact that IRS agents are hidden behind screens makes one think that they believe they belong to an organization such as the Mafia and if discovered they themselves would become a victim. It reminds me of the horrible pictures that we see of our FBI, BATF, and DEA agents making questionable raids on private citizens with stocking caps over their heads. In a civilized and free society, Government agents would act as our servants and not convey an appearance of a criminal element. But, nearly two decades ago Milton Friedman asked "When you sit across the table from a representative of the IRS who is auditing your tax return, which one of you is the master and which the servant?"

In light of recent revelations the administration was quick to defend the IRS and explain the need for a strong collection agency. What else could we expect? However, even the administration senses that the public is on the verge of revolt and quickly added that certain reforms would be necessary. Reforms suggested by the administration included an advisory board, of course without clout, as well as making sure the IRS offices were kept open for longer periods of time including Saturdays. The advisory board would be used to advocate suspensions of seizure of property when appropriate. Sure. When an agency of Government is acting outside the law, i.e., the Constitution, while continuously making numerous errors, then expanding their hours seems to me to only compound our problem, not reduce them. Though I'm sure some Americans will see this as a positive for the administration, hardly will this do anything to help the problem.

Even the Republican proposal to have a private board with more clout doesn't address the real problem. And another Taxpayer's Bill of Rights won't help either. If a private board is being appointed, what would keep the establishment from appointing friendly people to the board? I can't see where this would be any different from the IRS being supervised by political hacks from the Treasury Department. This whole notion that better service can be given to the taxpayer is a bit preposterous. The fact that we call this the Internal Revenue Service is an obvious misnomer. How can an agency of Government that sets out to confiscate our wealth provide a service to us? It is just as preposterous to refer to victims as customers. Taxpayers are no more customers of an organization providing a service than the man in the moon. This type of wording is nothing more than the newspeak of which Orwell wrote. So far the reforms advocated by the administration and the Congress will do nothing to solve our long-term problems.

Other more serious reforms have been suggested, such as eliminating the current Tax Code and replacing it with a flat tax or a national sales tax. Both of these proposals come up far short of dealing with the real problem. Supporters of both proposals never touch the problem of the Social Security, Medicare, flat tax of 17 percent which not only is here to stay but will surely rise. Since these programs are sacred no one can suggest that something should be done about them. But in reality, as I have mentioned before, the Social Security and Medicare tax is an income tax that is used for general revenues as the trust funds are nonexistent.

When one adds the tax that the employer and the employees pays, which is the real labor cost, each individual is paying 17 percent of their income up to \$65,000, which is a truly regressive income tax. If a flat tax of 17 percent is added we are immediately at 34 percent and rising. With a flat tax this high and with removal of tax exemptions for everything, and especially our donations as well as our interest on our houses, we are actually setting the stage for a much higher tax rate which will make no one happy. Sure, there might be a little less difficulty figuring out the code, a cost in and of itself, but if one can save some money by having a complex code this could actually be better than a simple code where we are forced to divvy up more to the welfare state. Besides, the flat tax that is proposed has exemptions for low income so immediately it is a flat tax after a certain amount thus it is in reality a graduated tax. Businesses would still have to deduct the expense of doing business prior to reporting their profits.

A national sales tax has also been bantered around as an alternative to the income tax. Where it too has some advantages, reducing the effects of the complicated Tax Code and making filling out our tax returns easier, it also has many short-comings. First, nobody knows precisely what rate would be required to pay all the bills. Some have suggested 15 percent, others believe it will be over 30 percent, which I am inclined to believe. The reason it's impossible to calculate is that at a certain level of taxation there will be a motivation to avoid the sales tax by expanding the underground economy.

The argument is made that the sales tax is a good way to collect revenue because those who are ducking taxes like the drug dealers and other criminals will be forced to pay the sales tax when they buy luxury items. There is nothing automatic about that assumption. Besides, IRS agents, who may be called something else, will be required to monitor every small business and every small profession to make sure that the revenues are collected and deposited in the Treasury. I can imagine that many small businesses and entrepreneurs working at home will have every bit as many records to fill out as they do now with their tax return. Obviously, reforming the tax collecting system to make productive Americans happy is much more difficult than meets the eye. Many Americans and Washington politicians are overly optimistic about changing the method of collection as the solution to the problems we face with our over exuberant revenue.

Changing the collecting system, if the goal is to pay the bills and avoid a deficit, does nothing to solve the real problem of disengagement with Government and the disgust with high taxes as well as with the prodding Federal bureaucrats who invade every aspect of our lives.

What is really upsetting most productive Americans is the fact that they have to work until July 3, before they get to keep any of their earnings for themselves. It's ironic that July 4th is our first day of independence from all taxation. This does not even take into consideration the inflation tax, i.e., the loss of value of our purchasing power, as our Government continues to diminish the value of the dollar.

The inflation tax is something that is much more difficult to understand and yet is the tax of last resort of all authoritarian governments.

We are now at the point where the American people are starting to rebel against any increase in taxation. In spite of the fact that we cannot pay our bills we were actually able, for political reasons, to make a token cut in some taxes last summer. This will not prevent our Government, acting through the Federal Reserve, from creating new credit when necessary thus diminishing the value of the money already held. On this tax, however, because it's difficult to see and the victims harder to find, the measurement is elusive. For this reason I am predicting that when push comes to shove with the budget it will be the ultimate tax used on the American people in an effort to continue to finance the welfare/warfare state. The real tragedy of this is that perceptions of the value of the dollar make it almost impossible to predict who the victims are going to be and when the value of the dollar will suddenly change. For instance it was quite clear when the recent devaluation hit the Mexican Peso it occurred suddenly and sharply and the victims were the middle-class and the poor throughout the country. But it was not gradual, steady and logical because the inflation tax frequently comes in sudden bursts.

The attention that token reforms are getting today, whether it be reforming the current system and devising a friendlier IRS or talking about a flat tax or a sales tax, actually is more of a distraction than a constructive debate. I am not saying this is intentionally done or of no value but I think that is the result of the current discussion.

The reason for this is that fundamentally and foremost it's not a tax problem we face. The basic problem confronting us as a country is a spending problem. Concentrating only on taxes, which is okay to a degree, avoids the subject of the size of government and the reason why the Government spends so much of the Nation's output. If we concentrate only on taxes and we avoid the subject of the role of Government and why the Government wants more of our money, we cannot and will not solve the problem. The goal ought to be to shrink the size of government and lower taxes. As bad as the income tax is on principle, an income tax of 3 percent on all money earned would not cause a tax revolt and most Americans would voluntarily pay their taxes. Even a national sales tax of 5 percent would not prompt a hue and cry over the tax system. The problem, of course, is that the Government is spending way too much money and there is no serious effort to cut back.

Recent budgetary efforts in Washington indicates that there's not much chance that the current Congress is going to do anything about cutting back. The welfare state is alive and well. Even the National Endowment for the Arts could not be cut, Clinton's health program is being implemented by the Republican Congress, public housing money is increasing, and just recently, in our Education Committee, a Republican proposal supported by Democrats to increase national educational expenditure for the purpose of promoting charter schools was easily passed, although it authorized a new \$100 million program.

As long as this attitude prevails on the spending side, Saturday morning hours for the IRS and keeping telephone lines open 24 hours or having a review panel or instituting a sales tax or a flat tax will do nothing other than delay the serious discussion about reducing the role of government in our lives, in our economy and in the world at large.

Supply side economics pushed by many during the 1980's argued strenuously for lower tax rates with which I agreed. But the goal of the supply siders was merely to stimulate the economy so that higher revenues would flow to Washington—a bad motivation. It is possible that with lower tax rate the economy would pick up but if the result was higher tax revenues, these revenues should be used to further cut taxes not increase expenditures. At the same time the supply siders were pushing the lower tax rates for the purpose of increasing revenues, they were advocating higher and higher budgets for the IRS to enhance the ability of the tax collectors. The Reagan administration was quite receptive to this principle believing that if a \$1 billion in additional funds was given to the IRS it promised to produce \$17 billion more in revenues through the process of harassment, intimidation and audit. Even this year the Treasury bill appropriation, which contained the pay raise for the Members of Congress, had an increase in the IRS budget of 9 percent giving them an increase of more than a half billion dollars to do exactly what they have been doing for decades. So, in the middle of the hearings on the Hill revealing the outrageous tactics of the IRS, and at the same time the politicians were propagandizing for tax reform, the large majority of Democrats and Republicans were voting for a huge increase in the IRS budget to continue the very process they were publicly condemning.

Today the atmosphere in Washington can be described as deceptively optimistic. Many of those who were preaching cutbacks and austerity a few years ago are claiming great victories with the accomplishment of a balanced budget. This budget is not balanced regardless of what the politicians are saying. Last year's national debt went up nearly \$200 billion when the funds taken from the trust funds are considered. Members are actually sitting around figuring out how to spend the excess they expect over the next several years. What they don't understand is that their projections of our future spending habits, the tax revenues, interest rates, and the state of the economy are unknown to them and quite frankly are going to be a lot different than their optimistic projections.

All taxes are extracted from the productive effort of the people. Whether the tax comes through an income tax, a sales tax, an inheritance tax, a school tax, property tax, or whatever, this is the method whereby the state confiscates the productive effort from the people. Governments produce nothing. All governments can do is use force to redistribute wealth and pay off their political cronies. The name of the game is power. Power is achieved by the politicians through the control of people's income through a taxing system as well as manipulating the value of money. As Chief Justice John Marshall said: "The power to tax is the power to destroy." It is not just a coincidence that those who introduced us to the welfare state, the Progressives of the early 20th century, believed both in the power to tax as well as the power to inflate.

In our relatively free society where productive efforts still exist and a profit motive remains, big government programs can be tolerated and funded for long periods of time. But as time goes on the productive ability of corporations and individuals is diminished as are all our freedoms for personal freedom cannot

long exist without economic freedom. Today, we are living under conditions which encourage the export of capital and the exporting of jobs while encouraging the immigration of individuals who will do quite well living off our welfare state. In spite of the euphoria now being expressed in Washington, at the height of our so-called recovery, the conditions are set for soon recognizing that productive efforts are being impeded by our tax and regulatory system and there has been absolutely no serious intent to change our spending habits. The welfare/warfare state is moving briskly along and is being encouraged by the deceptive pronouncements that our budget is balanced and all we need to do is change the method by which we collect revenues.

We do not have a technical problem or an IRS code problem. We have a problem in defining the proper role for government. As long as the majority of the American people still believe it's in their best interests to have a government that redistributes wealth and polices the world, this crisis will continue to build. A proper sized government would require minimal taxes and would be designed for the protection of liberty and equal justice for all. We have come a long way from those intentions of the Founders of this country, but we'll soon face a crisis of confidence and be forced once again to decide for ourselves just what kind of government we want and how much government will tolerate. Let's hope and pray that those of us who believe in limited government and maximum individual freedom will use the events of the coming years to promote the cause of liberty and not just tinker with the Tax Code. When that day comes the big tax debates will probably be; should we have a 5-percent import tax or a 10-percent import tax and we will not be dealing with a Federal income tax nor a Federal sales tax at all. Moreover, we will not be concerning ourselves with trifling reforms of a revenue agency which harasses our people and eats out our substance. Let us hasten that day.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH], a member of the Committee on Ways and Means.

Mr. HAYWORTH. I thank the gentleman from Ohio for yielding me this time.

Mr. Speaker, I have heard from many of my constituents, but this morning I heard from an Arizonan who made an indelible impression and really brought a face to this debate, Mr. Speaker. His name is Bob Brockamp. Bob's grandfather, Stan McGill, at age 93 several years ago made a mistake in writing a check to the Internal Revenue Service. He meant to write a check, Mr. Speaker, for \$700. He added an extra zero. \$7,000. Other merchants and other entities with whom Mr. McGill had dealt understood that he was having problems. Indeed, he was in the stages of Alzheimer's disease, and they would say, "Obviously there's been a mistake in his remittance, we're sending back a significant portion of that money." Just about every business he dealt with caught that mistake, but the IRS, when it received a check for \$7,000, kept the money.

Mr. McGill passed away. Bob's mom received basically a threat from the Internal Revenue Service. Even though

her late father had paid \$7,000 more than he owed, the Internal Revenue Service said to Mrs. Brockamp that his estate owed \$1,000, and she should pay it if she wanted to keep her home and personal property.

The Brockamps tried to fight this in court. They took it all the way to the Supreme Court. The Supreme Court ruled 9 to 0, "Gee, Brockamps, you might be right on this morally, but you're incorrect legally because the statute of limitations has run out."

Mr. Speaker, one of the many great things we do in today's legislation is to change the statute of limitations, indeed to remove the statute of limitations or suspend that statute for those taxpayers who are mentally and/or physically disabled and unable to understand what they were doing. Sadly, it will not help Stan McGill, but it will help thousands of senior Americans across the country. Support this legislation. Let us make a move positively for America.

Mr. RANGEL. Mr. Speaker, we would not be talking about burden of proof if it were not for the tenacity of the gentleman from Ohio [Mr. TRAFICANT]. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, I want to commend the Republican Party, the gentleman from Texas [Mr. ARCHER], the gentleman from Georgia [Mr. GINGRICH], the gentleman from Ohio [Mr. PORTMAN], and also along with the gentleman from New York [Mr. RANGEL] and the gentleman from Maryland [Mr. CARDIN] for this great bill. This is a great day. I want to also commend the Republican Party for beginning the dialog to change the Tax Code.

By the way, I would like to see us reduce income taxes in half and couple it with a small sales tax, require a two-thirds vote to increase it, and exemptions for poor people.

But let me say this today. In America, an American citizen accused shall be considered innocent until proven guilty, and the accuser shall carry the burden of proof in that matter. Where, ladies and gentlemen, in God's name have the bureaucrats been able to seduce Congress over the years to change that provision? If it is good enough for mass murderers, it should be good enough for Mom and Dad, our taxpayers.

I come to the floor here today because I know the White House has not signed off on this last provision. The Secretary of the Treasury questions its revenue impact, and the other body still has some reservations. I want the gentleman from New York [Mr. RANGEL] to imagine if we could travel back in time with all this technology, that Members of Congress decided to go to

Philadelphia and look into the Founders. Mr. Madison leans over to Mr. Jefferson, he says, "Great stuff here, isn't it, Tom?" And Jefferson says, "Great day. Aptly named the Bill of Rights, Mr. Madison. Do you agree, Ben?"

Ben Franklin says, "Hey, don't let it be written that Ben Franklin's not for this." Freedom of religion, freedom of speech, trial by a jury of our peers, no search warrant without seizure. A great day. "Do you agree, Mr. Hancock?"

"I think it's great, but I think we should run it by George. Mr. Washington?"

"Fellows, this is great, but what is it going to cost? What are the revenue impacts? We better hire some accountants and score it."

Unbelievable. We know George Washington never said that. The House of Representatives must insist today to put the Bill of Rights back in the Tax Code of the United States of America because if it was up to the IRS, they would score the Bill of Rights, and, by God, we would not have it.

Those IRS workers are not demons. We have created a monster. Most of them are good people. But in America the people govern. It is time to take our Government back. Today's vote is the most important vote we will cast in that whole process.

I thank the gentleman from Ohio [Mr. PORTMAN] for working hard to include my provision in this bill. I want to thank the gentleman from Georgia [Mr. LINDER], the gentleman from Georgia [Mr. COLLINS], the gentlewoman from Washington [Ms. DUNN], all of you.

Let me say this before I close out. I am not on a first-name basis with anybody at the White House, but I will make a house call over this provision that I have worked for for 10 years. Some 98 percent of the American people understood it and supported it.

I am glad to see there is no partisanship here today. The gentleman from New York [Mr. RANGEL], one of the most qualified Democrats we have ever had on Ways and Means, was not in the position to take a stand on the Traficant provision. But I am going to compliment the Republican Party here today for swallowing hard and including my provision. I know it was not easy. I know there are still some words in there that I am not totally crazy about, and they know that as well. But we can ratchet down the beginning, and I am hoping that next year after a track record of the burden of proof language change, you will consider two things from JIM TRAFICANT: Cleaning up that language on burden of proof which can be improved; and, second of all, dealing more specifically with the seizure practices of the IRS and look at the Traficant provision that says before they can seize your property, they must have judicial consent, you must have a notice of a hearing, and you shall be present and allowed to be represented at such hearing.

But let me tell you what. No one is going to be totally satisfied with anything. I am satisfied today. I am satisfied today that the Republican Party included a Democrat provision that, by God, I could not get heard on my own side of the aisle. I compliment you, I thank you, and let me say this. Keep the burden-of-proof provision in that final bill.

Mr. PORTMAN. Mr. Speaker, I once again want to commend the gentleman for his persistence and for his patience and for his strong support now of the legislation, a 10-year crusade.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD], a member of the Committee on Ways and Means.

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as a cosponsor of this important legislation to provide a sweeping overhaul of the IRS, I appreciated the opportunity to work in a bipartisan, pragmatic and collaborative way with the gentleman from Ohio [Mr. PORTMAN], the gentleman from New York [Mr. RANGEL], the gentleman from Maryland [Mr. CARDIN], the gentleman from Texas [Mr. ARCHER] and other members of the Committee on Ways and Means.

□ 1245

We promised, Mr. Speaker, tax relief for the American people, and we delivered. We also promised a major overhaul of the IRS, and today we must deliver again.

Mr. Speaker, this first comprehensive reform of the Internal Revenue Service in over 45 years is long overdue. I have heard from countless constituents about IRS abuses like most of my colleagues have about unfair and selective audits, arbitrary rulings, communications couched in gobbledegook and legalese. Mr. Speaker, these kinds of abuses of the American taxpayers must stop now. We must never forget we work for the taxpayers of the United States of America, and this legislation will make a big difference to the taxpayers of this country.

It is high time we change the IRS from an adversarial organization to a consumer-friendly, service-oriented organization. Let us pass this important bipartisan IRS reform bill today. Let us pass these 28 new rights for taxpayers. Let us overhaul the management of the IRS and hold the IRS accountable. Let us shift the burden of proof, as the gentleman from Ohio [Mr. TRAFICANT] has so eloquently called for for 10 years. Let us shift the burden of proof in tax cases from the taxpayer to the Government. Mr. Speaker, the taxpayers of America deserve nothing less.

Mr. RANGEL. Mr. Speaker, I yield 2 1/2 minutes to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I thank the ranking member, the gentleman from New York [Mr. RANGEL], for yielding this time to me. I want to

express my strong support for this legislation.

The oversight committee conducted a series of hearings on the problems facing the IRS and the American taxpayers who must deal with the IRS. The committee took seriously the negative experiences of taxpayers before drafting this bill.

The goal of this bill is that IRS operate efficiently while treating all Americans with the respect they deserve. This bill will ensure that incidents of harassment and intimidation against law-abiding taxpayers become a thing of the past.

Some of the provisions of H.R. 2676 codify reforms already implemented by the administration. Others come from the bipartisan National Commission on Restructuring the IRS. All of these are necessary. The taxpayer bill of rights language will protect innocent spouses from having to pay tax penalties for the action of their spouses. The bill also provides civil damages to the taxpayer when IRS employees negligently disregard the law. The bill shifts the burden of proof onto the IRS in Tax Court cases when the taxpayer has cooperated fully with reasonable requests for information. This is long overdue. These are real and not just cosmetic reforms. The IRS needs to do a better job of educating the people of the availability of taxpayer services.

As Members of Congress, we all try to help our constituents who have tax problems. In Florida, we have used an excellent taxpayer advocate in the IRS Jacksonville office. She has been able to resolve many longstanding tax problems of the people of Florida's Fifth District. I encourage taxpayers to contact their advocates. They might be able to quickly resolve some of their tax problems, and it is time to move forward.

I also want to remind my colleagues and the taxpayers that on Saturday, November 15, the IRS will hold the first of its monthly problem-solving days in each of its 33 district offices. This day will give taxpayers and practitioners the opportunity to resolve problem tax cases.

The IRS is encouraging, and I think this is important, is encouraging taxpayers to contact the IRS as soon as possible to schedule an appointment in the nearest district office. I hope that taxpayers with outstanding problems will take advantage of this.

Mr. Speaker, H.R. 2676 represents an important step in returning government to the people it represents. I urge the support of this bipartisan bill.

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], the chair of the Subcommittee on Oversight of the Committee on Ways and Means, who played a very important role in electronic filing, taxpayer rights, and many other provisions of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this

legislation, and I want to commend my colleague, the gentleman from Ohio [Mr. PORTMAN], for his leadership of what was a yearlong process of analyzing the serious problems plaguing the IRS and taking responsibility for developing solutions to those problems as the House chair of the Reform Commission. I commend him as well for his careful stewardship of the commission's report, educating Members on its substance, being open to rethinking some of its difficult issues, and, as a member of my subcommittee, working with us to strengthen and enlarge the taxpayers' rights.

Today we will adopt the most dramatic reform of the IRS since 1952. The three-point plan will overhaul the tax-writing process to help simplify the Code and protect taxpayers. It will create an independent oversight board to bring private sector expertise to the table to modernize the IRS's technology and create a customer service culture that can provide timely and accurate answers to questions and assist taxpayers with problems.

Third, it will create 28 new taxpayer rights, including the right to sue the IRS for damages resulting from the IRS's negligence, shifting the burden of proof to the IRS in the Tax Court, and for the first time taxpayers will be able to report abusive agent behavior to the IRS without fear of retaliation. Letters threatening an audit if someone does not participate in some voluntary program will end, and for the first time taxpayers will be given an explanation of the reasons for an audit and their rights in that process.

This should end politically inspired activities, it should end costly multiyear audits, even in cases where the person audited has been found to be owed money by the Government, and for the first time 30,000 innocent spouses will be saved \$30 million in taxes because they will not have to pay taxes owed by their former spouses, not by them. Too often the deadbeat dad not paying child support or taxes gets off while the innocent spouse is dunned by the IRS because she is available and she is responsible.

The 28 taxpayer protections will protect taxpayers forcefully and fairly, and I am proud of the work of my subcommittee in shaping these recommendations and in strengthening the taxpayers' protections.

I urge support of this bill as it represents a giant step forward, but I urge the committee to move forward with tax simplification which is the route of reform.

Mr. RANGEL. Mr. Speaker, I yield 4½ minutes to the gentleman from Maryland [Mr. HOYER] to express his views. Whenever anyone talks about improving how we collect taxes, his name, whether it was a Republican or Democratic President, was always there. He has worked very hard in not only trying to improve the present system but trying to improve the present piece of legislation.

Mr. PORTMAN. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from New York for his comments.

As a preface, I have served on the Subcommittee on Treasury, Postal Service, and General Government since January 1983. It is the responsibility of that subcommittee to oversee the Internal Revenue Service's budget and its management practices.

In the last three terms of Congress under Democratic and Republican leadership, our subcommittee has raised very substantial questions, and we have worked with the distinguished gentlewoman from Connecticut on those issues and the distinguished staff of her subcommittee who has done such an outstanding job.

I want to say to the gentleman from Ohio [Mr. PORTMAN] and to Senator KERREY, as they know, that I think their efforts have produced a good work product. I think the commission raised many appropriate questions and recommended some very solid solutions. Having said that, I want to preface my remarks by saying that I ask no colleague to follow me in either adopting my premises or my vote, not one, because I understand the power of the rhetoric that precedes this bill to reform the IRS.

There have been a lot of columns written on this issue. Jim Glassman, not an apologist for Democratic policies, says do not reform the IRS, and he says Republicans talk grandly about simplification but this year passed legislation adding 285 new sections and 824 amendments to the tax law.

Mortimer Caplin, a distinguished former IRS commissioner, said this:

The proposed overall design by the Restructuring Commission and its statutory offspring is deeply flawed. It would obscure the core focus of the IRS, blur the lines of authority, and hamstring efficiency.

The good news, my colleagues, is that under Secretary Rubin and Deputy Secretary Summers, for the first time since I have been on the Appropriations Committee, there has been a focus on management issues in addition to tax policy issues. As a result, very substantial things are happening at the IRS.

We are starting to get a handle on tax systems modernization, which was a disaster under the Reagan administration, under the Bush administration, and under the early Clinton administration, because the IRS clearly did not get a handle on its information systems technology. The good news is, we are now doing just that. We have an outstanding person that was recruited specifically to take on this task.

The Senate just a few days ago confirmed Mr. Charles Rossotti as the new Commissioner of the IRS. He is the former president of the American Management Systems, Inc., a firm of 7,000 people in northern Virginia. He has been doing exactly what IRS needs to

do, in the private sector: Handling information and providing quick, user-friendly responses in an efficient manner. This administration has moved to make sure that the IRS makes many of the changes proposed by the restructuring commission.

Now, having said that, the administration, myself, and others raised very substantial questions about the bill that was originally introduced.

I might say tangentially, there has been no speaker raising any questions prior to me about the problems with this legislation. However, numerous responsible, thoughtful, conservative observers have said that this is not the way to go.

On its surface the legislation which we consider today is about IRS reform. The proponents claim that it will be the answer to all of our concerns about an agency which has admittedly failed to manage its operations well.

However, too many of my colleagues believe that the simple creation of a private sector oversight board will lead to a more user-friendly and responsive IRS.

I would argue that the net effect of H.R. 2676 will be nothing more than phony tax populism as described by Gloria Borger of U.S. News.

And while there are many provisions in this bill which I support, I think the empowerment of a private sector board, with far-ranging powers, will do little more than add just another layer of bureaucracy.

The taxpayer bill of rights title is necessary to provide much needed relief to innocent spouses and those who, because they are ill, are not able to file for a tax refund in a timely manner.

There are also provisions in the bill which I support that are designed to increase electronic filing.

However, the bill creates an unnecessary and more complicated organizational structure at the IRS, which I believe will have the overall effect of less accountability.

While there is no doubt a role for private sector advice and expertise, what the IRS needs is more accountability, not less.

H.R. 2676 would place management in the hands of people who, however well-meaning, are loyal and accountable to the firms and businesses that employ them.

And while IRS bashing may be both fun and easy, I would suggest that if we are truly attempting to make the IRS more user friendly, we ought to take a closer look at the tax writers, not the tax collectors.

As the national commission on restructuring the IRS concluded, Congress' attempt to micro-manage the IRS and its frequent changes of the Tax Code, have undermined the ability of the IRS to manage efficiently in the long or short term.

No matter how many managerial changes we make, it will not make the IRS more user friendly. We ought to focus on improving education and serv-

ices for taxpayers, better training for IRS employees, modernizing computers, and simplifying the overall Tax Code.

Let's not hamstring the Commissioner's ability to enact real IRS reform by fooling ourselves into believing that adding another layer of bureaucracy in the chain of command is going to solve IRS' problems.

Let's build upon the progress started by Secretary Rubin and ensure that we enter the 21st century with an IRS that is customer-friendly, technologically-advanced, and governed 'by the people, for the people.'

Let us not delegate authority of the IRS to private interests who could easily undermine public confidence in the Agency and dramatically decrease voluntary tax compliance.

Are we all against the outrageous actions of the IRS? Absolutely. Should we take every action possible to eliminate the abuse of citizens that has occurred by IRS personnel or any other person in government? Absolutely.

□ 1300

But let me point out to my colleagues, that as Charles Krauthammer wrote so compellingly just a few days ago, "The IRS does not write the rules it must enforce. Congress and the President do, and the rules are now an insane 9,451 pages long. The Tax Code is so extraordinarily complicated that no taxpayer can ever be sure he has fully complied with the law."

That is the difficulty the IRS has in implementing the Code, and your commission said so. Your commission said one of the problems IRS has is that the Congress has not given them stable and steady funding levels. Your commission also said that there was not a systemic problem, and I appreciated those honest remarks.

I would hope, Mr. Speaker, that as we vote on this legislation, and clearly it will pass with over 400 votes so that we can all go home and say we are for IRS reform. My colleagues recognize that if one is not for IRS reform on appropriation bills and on tax bills, it will not happen. We will not be able to hide behind this vote.

I will look forward to the conference committee. In my opinion, the chairman of the Committee on Finance wants to go in exactly the wrong direction, as reported today in the papers, exactly the wrong direction, and that is what I fear. I would hope that we would look carefully at the product of the conference committee and ensure ourselves that we are in fact doing the right thing for the taxpayers of America.

Mr. PORTMAN. Mr. Speaker, I yield myself just 30 seconds to respond briefly, and then I would like to yield to the gentleman from Missouri. But with regard to the gentleman's comments, again I appreciate the supportive words he said. I would ask him again to read the legislation, because he has misstated what the oversight board's re-

sponsibilities are. They do not come up with the budget for the IRS, the Congress still does that of course ultimately, but in fact the Treasury Department will send its own budget. We do get an informational budget which I think is going to be very important, particularly to the appropriators.

Second, he talks about an additional layer of bureaucracy. What we are doing here is we are providing oversight that does not currently exist. We are filling a void; it is not an additional layer of bureaucracy.

Mr. Speaker, I yield 2½ minutes to the gentleman from Missouri [Mr. HULSHOF], a member of the Committee on Ways and Means, who has improved this legislation.

Mr. HULSHOF. Mr. Speaker, I accept the invitation of the preceding speaker to go beyond the rhetoric and talk about the outrages.

Mr. Speaker, let not my words today be an indictment against the hard-working men and women that are our tax collectors that are trying to do the best job they can. But as a Member of the House Committee on Ways and Means, particularly the Subcommittee on Oversight, we have the responsibility of looking at the inner workings of the Internal Revenue Service, and here are some of the examples we have seen already this calendar year. Earlier this year, we learned that over 100 IRS agents conducted unauthorized inspections of individual taxpayer records.

Example No. 2: The IRS delayed its notification to business owners of a new requirement to electronically file payroll taxes, and then the agency threatened these same business owners with severe sanctions for noncompliance.

Example No. 3: The error and fraud rate in one program alone, the earned income credit, is nearly 21 percent. Five billion dollars were erroneously paid out of tax money last year alone.

If these examples of mismanagement are not troubling enough, they pale in comparison to a recent Associated Press story that hit the newspapers in Missouri, and that is that the IRS is now targeting the victims of the great flood of 1993 with audits of these individual taxpayers who cannot document their losses because receipts were washed away in the flood.

Now, Mr. Speaker, the next time that the rivers in this country run high, Americans should not have to look after their family heirlooms, their prized possessions, their loved ones, and their tax records. Clearly, the time has come to institute bold management reforms.

I agree with the preceding speaker, the gentleman from Maryland [Mr. HOYER]. We also have to begin to talk about fundamental reform of the tax system. We have to talk about a fundamental discourse about how to change and simplify the Tax Code. But this legislation will begin to implement that taxpayer service. Shifting

the focus from audit quotas and collection goals to taxpayer service, to enhance taxpayer rights, allow individuals to collect attorney's fees when the IRS is wrong.

It is time to return the word "service" to the Internal Revenue Service. This restructuring bill does that, and I urge its support.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman for yielding me this time.

I would also like to thank the gentleman from Ohio [Mr. PORTMAN] for bringing this to the floor, and above all, I would like to thank the gentleman from Ohio [Mr. TRAFICANT]. It is said that Moses, after first freeing his people from the Pharaoh, and then wandering for 40 years in the desert, never got to see the promised land. That is sort of how the gentleman from Ohio [Mr. TRAFICANT] must feel after his 10 years of trying to get this done.

Mr. Speaker, I agree with the gentleman from Ohio. Had the Democratic leadership done its job and allowed this to come to the floor when the Democrats controlled the House and allowed the gentleman from Georgia [Mr. DEAL] to bring his welfare reform bill to the floor when the Democrats still controlled this House, we would probably still be in the majority.

But having said that, let me compliment all of the people that worked to make this possible, because it is right under American law that a person is innocent until proven guilty, and therefore, it should only be that a taxpayer is innocent of breaking the law until the tax court proves him guilty.

Second, I think it is very important that those people, and I have had a very close friend contact me and say that he thinks the only reason he was audited was because he helped me in one of my campaigns. That is wrong. If that is what really happened, it is wrong, and the people who did that should be punished. This bill would provide a \$5,000 fine and up to 5 years in jail to any executive branch employee who is convicted of using undue influence over an IRS audit.

Third, I hope that this is just the beginning of true tax reform in this country. I say to my colleagues today, or actually this Friday is the day that the apprentice welders at the shipyards back home get their first paycheck, they will pay more in income taxes than all of the cruise ships who do more than \$9 billion worth of business in American ports will pay collectively. They use our ports, they use our firemen, our police, our Corps of Engineers to dredge the channel, our Coast Guard to rescue them when they have trouble at sea. They pay nothing in corporate income taxes.

So it is simply not fair to allow that to happen. We need to follow up this great first step with the closing of the loopholes that allow the big guys to get off scot-free.

Mr. PORTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

This is a good time to be talking about this issue as the President has come out supporting this issue. It is kind of surprising that the President is sporting this issue, but on Monday of this week he talks about how selfish the taxpayers are to want to cut taxes. So at least he will say let us reform the legislation, even though he does not like the idea of cutting taxes.

While I support this bill, I have concern that the bill does little to mitigate the impact of the bureaucratic unions on the restructuring efforts. In 1996, Congress made serious attempts to downsize and reform the IRS. These efforts, however, were hampered by the union that represents the IRS employees. As pointed out in a Washington Post article, the union was more concerned with keeping their dues than helping Congress and their union Members make the IRS operate better.

I am also disturbed about the abuse of official time that has taken place at the IRS. Official time is, "authorized paid time off for Federal employees to engage in union activities." In layman's terms, that is union work at taxpayers' expense.

Although there may be some legitimate functions for using official time, the amount is skyrocketing at the IRS. Last year alone, the employees logged in over 718,000 hours; 718,000 hours paid by the taxpayers for official time to do union work. This is a 55-percent increase since 1993.

I realize the Chairman's limitations in addressing these issues, but want to bring them to their attention and appreciate the interest in addressing this issue in the future. I applaud this bill and believe it is a big win for the rights of hard-working taxpayers.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. GEPHARDT], the Democratic leader. It should be noted that he was the first to reach out to the gentleman from Ohio [Mr. PORTMAN] and the Republican leadership to make certain that this did not become a partisan issue.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I would like to commend the gentleman from Ohio [Mr. PORTMAN], who worked so hard to bring this legislation together and brought together the bipartisan bill. I would like to commend the gentleman from New York [Mr. RANGEL], and the gentleman from Maryland [Mr. CARDIN], who worked so hard on our side, with the gentleman from Ohio, [Mr. PORTMAN] and others to do this, and this truly is a bipartisan bill.

I strongly support this bill to reform the Internal Revenue Service. In my view, we are taking an important step

to increase the accountability of the IRS and to shift the balance of power back toward the taxpayer. But it is important to remember that this bill is not the end game in our battle to make the tax system fairer.

Let us make sure that this bipartisan step taken today will not fall prey to partisan fodder for next year's campaign. House Republicans, I hope, will pressure their Senate leaders to pass this bill. Let us get it in place before the tax season so that people can benefit immediately.

Over the last several weeks we saw the abuses which took place at the IRS, abuses which caused Americans to become even more outraged by our system of taxation. There have been countless numbers of stories about abuses of the enforcement power of the IRS. However, one incident which took place in my hometown of St. Louis, I think sums up what is wrong and what this bill begins to address.

In 1993, Missouri suffered from record flooding which destroyed thousands of homes and belongings. There was a designation of a Federal disaster, and we made special arrangements for individuals to deduct their losses suffered from the flood. Amazingly, 3 years after the natural disaster took place, there was a manmade disaster which revisited the flood's victims.

The IRS challenged over 200 households about the value of the loss they claimed. Taxpayers were asked to prove the market value of lost assets when they had their records wiped out by the flood itself. A woman who lost her mobile home was forced to pay \$10,000 in back taxes from this incident.

Now, this is not a case of IRS agents who have run amok, this is a case where common sense, good common sense and fairness was not applied. People who were allegedly victims of a disaster were victimized once again by their own Government. This bill will help eliminate horror stories like this from being repeated.

This is just the beginning to a critical process of radically overwhelming our entire tax system. We also need to restore some sanity to the process of filing and preparing taxes. We need to take the major step of abolishing the Tax Code itself and then writing and rewriting a Tax Code that allows people to make decisions based on their families' best interest, a Tax Code that eliminates gimmicks and loopholes that only benefit the wealthiest taxpayers.

One thing is for certain. Democrats are going to fight for the working men and women of this country to get a system that works for them. The American people have had enough of a tax system that is secretive, adversarial, and unfair. Let us start making change happen. Let us make it fair today for working people, and let us start today and let us get our friends in the other body to follow the lead of this bipartisan group to make historic change in our Tax Code.

Mr. PORTER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me this time.

Many individuals have experienced enforcement powers of the IRS at their worst. Reports by GAO uncovered tales told by many taxpayers of unfair, unruly, and sometimes illegal treatment by IRS employees toward taxpayers demanding additional taxes and even seizing property for payment of taxes that could not effectively be challenged without substantial investment of time and money on the part of the taxpayer.

Thankfully, beginning in 1996, the gentleman from Ohio, [Mr. PORTMAN], and the gentleman from Nebraska Senator BOB KERREY, were appointed to cochair a bipartisan commission to study and make recommendations to Congress about suitable reforms. H.R. 2676 is a result of that commission.

I can say to my colleagues, this bill will prohibit specific Government officials from requesting that the IRS conduct or suspend an audit, stop fishing expeditions by the IRS, require probable cause for IRS investigations, direct the Treasury to study the implementation of a paper-free tax system, extend confidentiality privileges, provide statutory rules governing innocent spouse relief, change the burden of proof to the IRS and not the taxpayer, and finally, an oversight board. All of this makes this bill one worthy of passage in a bipartisan fashion.

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Mr. RANGEL. Mr. Speaker, I yield 3½ minutes to the gentleman from Massachusetts [Mr. NEAL], a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, while I rise in support of the Internal Revenue Service Restructuring and Reform Act of 1997, I also want to temper my support with a couple of warnings. While this legislation would restructure the Internal Revenue Service to provide better oversight, greater continuity of leadership, improved access to expert advice from the private sector, and additional management flexibility, I also think that there are potential difficulties on the horizon.

There has long been an agreement on the need for fundamental reform of the IRS, and I certainly commend the work of the National Commission on Restructuring the IRS. I support a majority of the recommendations made by the National Commission, and I am certainly pleased that further improvements have been made to the additional legislation introduced by the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN]. They have worked diligently to modify their original bills to reflect the concerns of many of us on the Com-

mittee on Ways and Means concerning governance.

I believe that the Constitution requires that the IRS Commissioner be appointed, hired, and, if necessary, fired by the President. The legislation today before us keeps the President ultimately responsible for the actions of the IRS and the decisions of its Commissioner. The Department of Treasury would still have a role in the oversight and management of the IRS. A key component of the bill is taxpayer rights. These provisions will provide new protections and assistance to millions of taxpayers. I support the overall goals of this legislation.

Let me relate two concerns. First, I am concerned about the authority given to a newly created oversight board. This oversight board has the authority to review and approve strategic plans of the IRS, and review and approve the Commissioner's plans for major reorganization. Under this bill, eight private sector individuals would have this authority.

The bill is not clear on what happens to our tax administration system under these new board authorities if a consensus is not reached among the board members, or if the IRS Commissioner and Treasury Secretary disagree with the views of private sector individuals.

Second, I am concerned about the provision in the shift of burden of proof. This bill provides for the burden of proof to be raised to the Secretary of the Treasury in any court proceeding with respect to factual issues if the taxpayer asserts a reasonable dispute with respect to the taxpayer's income liability.

The shift in the burden of proof could result in unintended consequences. It could result in the IRS conducting more intrusive examinations, and the IRS issuing more subpoenas and more summonses to third parties in search of evidence. This provision could induce taxpayers simply not to keep records.

Our tax system is voluntary, and we have an overall compliance rate of 85 percent, the envy of much of the industrialized world. The individual nonbusiness compliance rate is 97.5 percent. The individual business compliance rate is 70 percent, and the shift of burden of proof could indeed, if we are not careful, make it worse.

Mr. Speaker, the IRS conducts more than 2 million audits each year, but only about 30,000 cases reach court annually. This provision could have more far-reaching consequences. It could help aggressive taxpayers avoid taxation. We should make it easier for taxpayers to deal with the IRS, but I do not think we should make it easier for taxpayers to evade taxes. This provision needs to be improved, because those who voluntarily comply with our tax system simply deserve more.

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada [Mr. ENSIGN], a very valued member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Nevada [Mr. ENSIGN].

The SPEAKER pro tempore. The gentleman from Nevada [Mr. ENSIGN] is recognized for 3½ minutes.

(Mr. ENSIGN asked and was given permission to revise and extend his remarks.)

Mr. ENSIGN. Mr. Speaker, this bill that we have before us today is brought forth in a bipartisan fashion. I would like to recognize my colleagues on the Committee on Ways and Means, the gentleman from Ohio [Mr. PORTMAN] and the gentleman from Maryland [Mr. CARDIN]. They have done outstanding work. This is a very good bill, and I think we are hearing a lot of reasons why this is a good bill today. But the American people have been way ahead of the Congress for many, many years. They have recognized how intrusive the IRS has been.

In my city of Las Vegas, the IRS is viewed almost like the KGB or Gestapo was once viewed in other countries. This is not necessarily the fault of individual IRS employees. This is the fault of the U.S. Congress and the Presidents of past, who have passed an incredibly complex Tax Code.

Former Representative Sam Gibbons said, in a retreat that we had a couple of years ago, that there was no single Member of Congress more responsible than he himself was for messing up our Tax Code. That was because every single time that they tried to reform the Tax Code, because of all the special interest groups that we have up here, it gets more complex. And the more complex it is, the more incentive there is for the IRS to do some of the shenanigans that they do.

I said before that the American people are way ahead of the Congress. The American people are demanding not tax reform, but tax replacement. Every place I go around my district, people are saying, we have to lower the tax rates. As we are replacing the Tax Code, we have to address this issue. That issue is the issue of fairness. We have to define exactly what fair is.

During hearings in front of the Committee on Ways and Means a couple of years ago, I asked Jack Kemp, the gentleman from Texas, [Mr. DICK ARMEY] and the gentleman from Missouri, [Mr. DICK GEPHARDT] what their definition was. Jack Kemp and the gentleman from Texas, [Mr. DICK ARMEY], said, when everybody is treated the same. The definition of the gentleman from Missouri, [Mr. DICK GEPHARDT] was, based on your ability to pay.

That means if somebody works twice as hard, you have a farmer over here who works twice as many hours a week, happens to make twice as much money because they work twice as hard, they should be penalized by paying a higher tax rate than the farmer over here who does not work quite as hard.

Mr. Speaker, we need to have a fair Tax Code in America that does not penalize people who work harder, who

make the sacrifices necessary to be successful. In America we have been about rewarding success in the past. Let us get back to where success is treated in a manner that we want more people to try to achieve it, like we do in school. We do not penalize people for getting A's in school. We should not penalize people for wanting to be entrepreneurs, for wanting to create jobs in America, for wanting to be successful themselves.

This is the fundamental issue that we have to get to, not only today, by reforming the way the IRS works, but truly to get to overall tax replacement with a fair, simple, lower tax rate and tax system.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. ENSIGN. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I would ask one question, which is, basically, how long would the gentleman say, as a new member of the committee, it would take to draft this legislation to bring it to the committee and to pass this new tax that the gentleman wants? How long would it take to do it?

Mr. ENSIGN. Mr. Speaker, as we have seen going through the committee, the administration is against replacing the income tax as we know it, based on their testimony from the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I would like to reword my question. Forget the administration. The gentleman is in the majority. He has the majority of the votes. How long would it take for him to get a bill passed?

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], a member of the committee.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise in support of this IRS reform. Let there be no doubt that IRS abuses will not be tolerated. Many of the unfortunate situations that were brought forth by the Senate hearings are already improper or illegal under the law, and obviously should not be tolerated.

There also, unfortunately, was something we found out that happened, that there was some kind of pervasive atmosphere in some of the offices that tied advancement to collection. As a result, throughout the offices, if you did not collect, you did not get advanced. This moved on to the point that common courtesy and common sense were forgotten. This also cannot be tolerated. I think these hearings have brought this forth.

Having said that, I do also want to mention that there are many, many, many thousands of people working for the IRS that were carrying out their duties in a courteous and common-sense manner. We should recognize that. However, the bureaucracy absolutely should know that their day is over.

I would also like to point out that in all of the debate of this issue, one fact

has been obscured, that the enhanced taxpayers' bill of rights has always enjoyed broad support in a bipartisan manner. In fact, the very first Taxpayer bill of rights was enacted some years ago, and I believe this should be an ongoing process.

Finally, I believe the legislation is significantly improved over the earlier versions, and all members of the Committee on Ways and Means worked on this. But I believe it can require further improvement, particularly in the area of burden of proof and conflict of interest.

For instance, in committee the gentleman from California [Mr. STARK] offered an amendment to preclude IRS board members from representing clients before the IRS. Unfortunately, this amendment did not pass. I think as Members look at this, as other Members in the body look at this, this could be remedied, because this obviously will cause conflict down the line.

I support this, and am glad this bill has been improved. It certainly was needed, and I hope everybody listened and learned from the lessons of the Senate hearings.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say that this is an historic moment. We are considering landmark legislation today. It is the first time in 45 years that we have attempted as a Congress to enact fundamental reforms at the IRS.

I want to start by thanking the gentleman from Texas, Mr. BILL ARCHER, chairman of the Committee on Ways and Means, not just on behalf of me, but really on behalf of the millions of Americans who will be positively affected by this legislation, the taxpayers. For the past year and a half he has consistently supported this reform effort; first, the bipartisan National Commission on Restructuring the IRS that I cochaired, and then the legislation that came out of that Commission.

It was the gentleman from Texas, Mr. BILL ARCHER who made this the Committee on Ways and Means' top priority for the fall. It was he who moved it expeditiously for the floor. We would not be here having this debate today if it were not for his support.

I also want to thank my cosponsor, the gentleman from Maryland, Mr. BEN CARDIN. He worked with me on this legislation long before it was fashionable on his side of the aisle. He looked at the legislation carefully, independently. He judged the bill on its merits, rather than listening to, frankly, the critics in the administration and others. He actually took the time to study it himself. He stood up for what he believed in. As a result, he improved the final product.

I want to commend the gentleman from New York, Mr. CHARLIE RANGEL, senior Democrat on the Committee on Ways and Means, who I think today as I have heard him talk has just joined the Scrap the Code Tour. But the gen-

tleman from New York, Mr. CHARLIE RANGEL, played a very important role as a bridge between the Congress and the Clinton administration.

This is a very comprehensive and ambitious package of reforms. Members have heard a lot of people talk about it. As such, it is the product of a lot of hard work by a lot of good people: Members and staff of the IRS Subcommittee on Oversight, chaired by the gentlewoman from Connecticut, Mrs. NANCY JOHNSON, who did a tremendous job on taxpayer rights, electronic filing and other committee issues; the full Committee on Ways and Means staff, many of whom are here today; the Joint Tax Committee staff, Ken Kies and others; the Government Reform and Oversight Committee had jurisdiction over this, and they helped us on this.

Regarding the Committee on Appropriations, the gentleman from Maryland, Mr. STENY HOYER, talked earlier about the appropriators. The gentleman from Arizona, Mr. JIM KOLBE, and the gentleman from Maryland, Mr. STENY HOYER, had a lot of input into this process, as did their staffs; and finally, the Committee on the Budget and the Committee on Rules. Both of those committees also had jurisdiction over parts of this comprehensive legislation.

Also, I give thanks to the many outside groups who spent a lot of time working on this legislation and gave us valuable input. Then, when we had a good package together, they went out and sold it to their members, the people at the grass roots. The National Taxpayers Union, Americans for Tax Reform, the NFIB, the Chamber, Citizens Against Government Waste, and yes, the tax preparer community again gave us valuable input and helped us to put that together. They work closely with the taxpayers and the IRS every day. They know this will help. That is why they are supporting it.

Special thanks to people who were there from the beginning, to each member of the National Commission on Restructuring the IRS, including my cochair, of course, Senator BOB KERREY of Nebraska; but also our colleague Senator CHUCK GRASSLEY of Iowa, and the gentleman from Pennsylvania, Mr. BILL COYNE; the Commission staff; and finally, to my own personal staff, who have gone well beyond the call of duty.

The Commission conducted a year-long audit of the IRS and made specific legislative recommendations for change. It was successful, I think, for two reasons. First, we kept politics out of it. In fact, we brought expertise in. The people who were represented on the Commission brought the kind of expertise to bear that we needed to solve the real problems at the IRS.

Commission members not only included a former IRS Commissioner, the heads of the New York and California State tax systems, but also a small businessman, a representative of the

people who work at the IRS, technology experts, taxpayer advocates.

And the Commission did its homework. We conducted 15 days of hearings in and out of Washington, interviewed all the senior level IRS managers, and for the first time ever actually conducted interviews with 300 on-line IRS employees to find out from them what the problems were. Finally, we listened carefully to the concerns and stories of the taxpayers who foot the bill.

After our year-long audit, we ended up with more than 50 specific reform recommendations for the most comprehensive overhaul of the agency since 1952. The IRS Restructuring and Reform Act before us today takes these recommendations and, I think, improves on them. Others have given a good overview of the bill. Let me just touch on a view of the points.

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First, while this effort focuses on making the tax collection system work much better, not the Internal Revenue Code itself, the commission found, as many of my colleagues have discussed today, that we also need to simplify our Tax Code. We take the first step in doing that in this legislation.

We do so by putting in place new legislative incentives for tax simplification as compared to every other incentive around here which is for more complexity. We also force the IRS to be at the table to tell us what a great-sounding new tax legislative proposal is going to result in, in terms of new tax schedules, time for the taxpayer to fill them out, and work for the IRS.

The bill also targets Congress by consolidating and streamlining congressional oversight. There are now seven committees that give the IRS advice. We streamline it, and we force these committees to come together and to send a clear and consistent and single message to the Internal Revenue Service from Capitol Hill.

The overall thrust of this bill is to make service to the taxpayer, not heavy handed enforcement, but service to the taxpayer the top priority of the IRS. It does so in a number of ways. Importantly, it dramatically increases IRS accountability for getting the job done by establishing a more effective IRS oversight body.

You have heard other Members talk about the oversight board today. The important thing is that it brings expertise to the IRS that is absolutely needed and is not there now. Second, it provides continuity, stability of leadership, so that over time we actually have changes that are going to work for the taxpayers so we are not up here 3 or 4 or 5 years from now discussing the same problems.

With this input from nongovernmental experts to hold the IRS responsible for answering the phones, getting the computers to work, ensuring that IRS employees are trained, and, yes, treating taxpayers more courteously, with more respect, we will have a new IRS.

Much of the media attention has focused on the oversight board, what is often overlooked, is that we actually give the IRS commissioner more power, more tools to be able to manage the agency, to get the job done day-to-day.

We give the commissioner a 5-year term so the commissioner's responsibilities go beyond any single administration. We also give the commissioner the ability to bring in his or her own team of senior managers. Charles Rossotti was just confirmed by the Senate this week. I think he will be a good IRS commissioner. He brings management experience and information technology experience that is badly needed. We need to give him these tools because without them, frankly, he is going to have a very difficult job doing what he wants to do, which is to turn the IRS around and make it a taxpayer service organization.

Taxpayer rights. If Members saw the Senate Committee on Finance hearings, they know that we do need new rights in legislation for taxpayers. The bill provides us 28 specific new taxpayer rights, like allowing taxpayers to recover damages when the IRS does something wrongful, like the burden of proof shift we have heard about from the gentleman from Ohio [Mr. TRAFICANT] and others, like protecting innocent spouses from IRS harassment. All of these are extremely important. They compliment the other provisions of the bill.

Very importantly, this legislation also creates a new system within the IRS to evaluate employees. Again, it has been overlooked by many, but this is one of the most fundamental changes in terms of changing the culture at the IRS. The new system would evaluate employees and managers not on the amount of money, taxes, they collect, but on the degree to which they are providing good service to the taxpayer.

It also puts in place unprecedented personnel flexibility to allow IRS managers to promote folks who are doing a good job within the agency and, yes, to fire the bad apples at the agency. This is called reinventing government. We are not just talking about it today, we are actually passing legislation to do so. Again, along with the other reforms, this is what is going to change the culture at the IRS.

There are many other key provisions in this legislation: Establishing new financial accountability to force the IRS to balance its own books; knocking down barriers to electronic filing, which is a win-win for the taxpayer and the IRS; and, finally, making the taxpayer advocate truly independent so that that taxpayer advocate is indeed an independent advocate for the taxpayer.

Taken as a whole, these legislative changes, this whole package, will create a new IRS that treats the taxpayer with respect, gives the taxpayer the service they deserve. We have to re-

member, this troubled agency touches more Americans than any other Federal entity. Today, all of us as taxpayers are the real winners.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I would like to take some time to again congratulate the gentleman that just spoke, not just because of the expertise that he brought in perfecting a bill, but his ability to reach across the aisle to make it very easy for the members of the committee to at least take a look at what he is talking about.

I notice a provision that is very close to the gentleman, and that is the tax complexity analysis that he spoke about in the well. I would like to yield to the gentleman to respond. If this was an existing law, how would this apply to the bill that was reported out of our committee?

Mr. PORTMAN. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Speaker, I think if this had been in place, we would have had a better tax bill enacted this summer by the U.S. Congress. I think we would have known more about what the complexities are, not just for the taxpayer but for the tax collection agency.

Mr. RANGEL. Well, I do not want to get involved in how the bill came to the floor, but the gentleman is asking the people that are responsible for doing what we tell them to do. We are the ones that made their job difficult, and the gentleman and I agree on that, and so does the chairman. We have beat up on them because they did it poorly, but it was our complex legislation that they had to administer.

The gentleman and I are now seeking to improve the Code after, as the mumbler would say on the floor, after 37 years of Democratic fiascoes. We have had a similar extension of 3 years of Republican fiascoes. Now we are saying, let us clean it up. I share with the gentleman that unless we attempt to do this in a bipartisan way, it will be America that loses.

I just want to compliment the gentleman for the direction that he is going. I hope when we say we have to work together to scrap the Code, as the gentleman likes to say, or to pull up the IRS by the roots, that we are talking about pulling up this Tax Code by the roots and replacing it with something that is fair and equitable. We cannot agree unless we see what the gentleman is talking about. For 3 years, I have not seen it. But I look forward to working with the gentleman, hoping that the other side, while they are talking about scrapping, pulling up, and getting rid of, would give us something to work with.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN], a distinguished member of the Committee on Ways and Means.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in support of this bill. It is a positive step in the direction of restoring and increasing confidence in a system that relies on taxpayer compliance to be successful. It addresses the responsibility that both the Congress and the administration must play in improving the accountability and customer service of an agency, as said here, that touches the lives of nearly all Americans.

The bill contains a number of provisions which will reform the IRS. It will improve the use of technology at the IRS by enhancing the electronic filing of tax returns and other documents. It is unacceptable in this day and age that the IRS does not have the most up-to-date computer technology.

It will expand taxpayer relief for the innocent spouse and provide tax refund relief to taxpayers during periods of disability. It will also expand relief to taxpayers through taxpayer assistance orders, grants for low-income clinics, and penalty relief for those who have installment agreements with the IRS. The revised bill also retains the accountability of the administration over the IRS by retaining the President's authority to hire and fire the IRS commissioner.

This bill is an important step in addressing critical management and oversight issues at the IRS, but it is not a panacea. There remain some issues in this legislation that we need to continue to work on. I have met with IRS officials in Michigan to discuss problems, and I intend to continue to do so.

We do need to look at the Tax Code itself and debate differences of opinion about how to improve it. In doing so, the aim must be to benefit the citizens that we represent, not to jockey for position at the next election.

Mr. PORTMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. SHAW], chairman of a subcommittee of the Committee on Ways and Means and former CPA and recovering lawyer, who added a great deal to this legislation.

Mr. SHAW. Mr. Speaker, I thank the gentlemen for yielding me this time.

I would like to congratulate the gentleman and the gentleman from Maryland [Mr. CARDIN], the gentleman from Texas [Mr. ARCHER], and the gentleman from New York [Mr. RANGEL] for getting together and bringing such a wonderful bill that is long past due to the floor of this Congress.

I think perhaps the most shivering words that anybody can hear is the knock on the door or the phone call or the letter that starts out, I am from the IRS, because of the complexity of the Tax Code and the problems involved in filing one's own return.

Not too many years ago, I think it was just 2 years ago, an accounting

problem was given to the top accounting firms in the United States and asked them to take this example and, from this, to devise an income tax return and to figure the tax liability from that set of circumstances that were given. Out of the many tax preparers that participated in this experiment, not one of them came up with the same tax liability. It was not even close. It was thousands and thousands of dollars apart. It just shows the tremendous complexities of the Tax Code and the problems that they have.

During the debate on the floor, I know it has been going back and forth as to the complexities that were put into the Tax Code and whether the Democrats or Republicans did it. I do not think that makes any difference. It is this Congress that is bringing about the correction and is bringing it about in a bipartisan way, as a beginning, I would say, as a beginning.

Under the new rules that we have imposed upon ourselves, when we give somebody a tax break, we have got to work in revenue somewhere else in the Code. What has this developed over the years? It has developed a patchwork quilt. It has provided for us a real mess that is going to take a lot of effort, a lot of bipartisan effort, to straighten out.

The only way to do it is to try to get together and to at least get some bipartisan support. It is not going to be complete. There will be a lot of controversy when it finally goes. But this Code has to be ripped up by the roots.

Now, this is going to balance the playing field as far as the Internal Revenue Service for the taxpayers. This is tremendously important. The Internal Revenue Service should be more of a service rather than a policeman in watching over the taxpayers.

But in doing this, it is just basic fairness. We do not want to give the police in this country a criminal code that is so complicated that they do not know how to administer it or to enforce it, but yet we have done this with the IRS. To make it worse, we have provided that the taxpayer has no privacy or right of confidentiality with their CPA.

In this regard, I think it is most important that when somebody is talking to their tax preparer, when they are going over all their books and records, that they know that their tax preparer is not going to be called in and questioned because he has no particular rights of confidentiality. This particular bill will correct this situation and let the taxpayer have confidence, the same confidence that he has in dealing with his lawyer, and that is only fair.

I think one of the other big things in this bill that other Members have talked about today but is tremendously important, it puts the burden of proof on the IRS instead of the taxpayer.

I remember in studying the Tax Code as a student in college and at law school that it always was confusing to me how we could have this sense of jus-

tice where a taxpayer has to prove his innocence as far as the amount of taxes that are owed in order to prove his case and the IRS really does not have to prove anything. This is bringing about fairness, and for the first time the burden of proof will be on the IRS.

This is a tremendous bill. This is a first step. I want to say, it is only a first step in ripping out the entire Code to reform the Code and perhaps even give us the opportunity, the historic opportunity, to take, eliminate the income tax as we know it today and, in its place, put another type of revenue collection for the Federal Government that will be fairer, easier to administer, and much easier and fairer in being able to enforce by the Federal Government.

Again, my compliments for all of those who put this bill in place. It certainly is, I think, a very, very good day in the history of the U.S. House of Representatives.

□ 1345

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me associate myself with the remarks of the gentleman from Florida [Mr. SHAW] that we have in a bipartisan way moved forward in trying to correct the abuses and better the collection of taxes. I do not see anything in this bill that deals with the simplification, even though there is hope that this bipartisan spirit will continue.

I have been invited to join this Scrap the Code trip, and I accept. Let us scrap it. But I think they ought to, anyone that is going to join with them in this effort, to at least talk about what they are going to replace it with. There are just as many different views on their side as there is on our side. But I do not think it is fair to the American people, as political as it may sound, to promise them that they are getting rid of this complex Tax Code, which none of us are proud of, and not tell them what they are replacing it with.

Mr. PORTMAN. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Speaker, the gentleman from New York [Mr. RANGEL] just said that there is nothing in this legislation with regard to simplification. As the gentleman from New York [Mr. RANGEL] is aware, there is for the first time ever in this legislation the requirement that my colleague or I or anybody else who has a new tax idea has to subject it to this simplification analysis. And if we do not do that, my colleague or I or any other Member can raise a point of order on the floor of the House.

This is not the flat tax. It is not the sales tax. It is not scrapping the code and starting over. But it is a first small, baby step in the right direction, because every incentive now, as my colleague knows, goes the other way, and he talked about it earlier.

Mr. RANGEL. When this reaches the President's desk, let us, my colleague and I, talk about that provision.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Speaker, like other Members, I have helped many, many constituents resolve disputes with the Internal Revenue Service.

In one case earlier this year, a Raleigh man trying to make good on his back taxes was not told that he had the option of setting up a payment plan. Instead, the IRS placed a lien on his bank account. In another case, a woman who had set up a payment plan and made every payment on time received notice that her plan had been canceled and her entire balance was due within 2 weeks.

Fortunately, I was able to help these constituents. But not every taxpayer is able to come to their Member of Congress. We need to fix the system for everybody. We need to restructure the IRS. We need to do away with tax collection quotas. We need to revise rigid rules. And we need to set customer service oriented collection policies that are geared toward assisting taxpayers in complying with the law rather than punishing them.

H.R. 2676 is based on the recommendations of the bipartisan National Commission on Restructuring the IRS. It will strengthen taxpayer rights and modernize the administration of the IRS. The new IRS Oversight Board, made up of a majority of private sector professionals, will have the authority to eliminate collection quotas and measure performance by the quality of service that agents provide.

Mr. Speaker, passage of H.R. 2676 will restructure the IRS and pave the way for further reform and simplification of the Tax Code. I urge my colleagues to vote for this long overdue legislation.

Mr. PORTMAN. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. HILL].

Mr. HILL. Mr. Speaker, I rise in strong support of the Portman-McCrery reform of the IRS.

Mr. Speaker, nothing evokes greater fear in the heart of taxpayers, in the hearts of small business owners than does a notice from the IRS. Men and women who obey the law, follow the rules, and respect their responsibilities to collect and report and pay taxes have great fear of the IRS.

Why is it that law-abiding people fear this organization? Well, the reason is, what we saw in the Senate hearings just a few days ago, reported abuses by the employees in the IRS and abuses in terms of how the IRS is oriented toward dealing with the public. We do not need hearings in the House of Representatives to know that the IRS is frequently causing great conflict for taxpayers.

H.R. 2676 is a good start because it focuses on serving the public and serving taxpayers rather than enforcement. It

changes performance standards so people are rated on the basis of how well they serve the public rather than how strictly they enforce the law. It creates an oversight board of citizens. It creates a taxpayers' advocate. It creates accountability, Mr. Speaker. And that is why I support the measure.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

[Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.]

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New York [Mr. RANGEL] for yielding me the time, and I thank the committee for its leadership.

The discussion that we have had on the floor today emphasizes that we have come now full circle to recognize that concerns by citizens about the IRS are well-founded. Although we pay tribute to those hard-working Internal Revenue Service employees that work day after day doing their job, it is important that we now in a bipartisan manner reform the IRS. I think that is important.

This is not a Republican piece of legislation. It is not a Democratic piece of legislation. In fact, I would like to see more things being done. But I am here to generally speak to the fact that we are, at least, doing something. And I will continue to review H.R. 2676, along with its many amendments, to determine its adaptability to the concerns that I have.

First of all, I held a hearing with constituents in my district in Houston where they testified to many examples of problems with the IRS. The story of a doctor who was obviously not leaving town, and who attempted to resolve his problems with the IRS; when an IRS agent came into his office to physically remove him from his medical practice while he was attending to his patients and then to further close down his doors. What about the law enforcement officer, wounded and injured and in his hospital bed, only to find out that his house had been foreclosed on and other tragic situations happening while he was recuperating from a job injury. These are the kinds of grievances that we face all the time.

I am delighted that we are looking at opportunities, for example, to move the burden of proof so that taxpayers in IRS court cases are considered innocent until being proven guilty. I am interested, of course, in the oversight board. I think that has great possibilities. And certainly I am concerned about the fairness of IRS audits. The common law privilege of attorney-client privilege for those authorized to practice before the IRS will now be afforded, as it should be to persons—tax advisors—representing taxpayers before the IRS. It will also end the use and abuse of summons by the IRS in looking for documents. A spouse who may be innocent for the mistakes of another spouse in preparing a tax re-

turn will also now be afforded tax relief.

Let me conclude, Mr. Speaker, by explaining parts of IRS reform legislation, the Taxpayers Justice Act of 1997, that I intend to offer in the legislation. It provides for a true taxpayer's citizen's advocate located in IRS regions throughout the Nation, serving as a watchdog over the IRS. Additional provisions relating to eliminating discrimination in the workplace and solving unfair tax burdens put on the divorced spouse.

Mr. Speaker, I include the following for the RECORD:

Mr. Speaker, I rise today in support of reforming the Internal Revenue Service to make it more efficient, accountable, modern and taxpayer friendly. This is the call from the constituents of the 18th Congressional District in Texas that I heard when I recently held a town hall forum on IRS abuses of taxpayers.

The stories of coercion, corruption and scare tactics of IRS agents that I heard were more than enough for me to prepare for introduction of my own IRS reform bill. Entitled the "Taxpayer Justice Act of 1997" it has many of the provisions that are being offered today in this comprehensive reform bill.

My bill called for civil and criminal penalties if there is a finding of abuse of taxpayer's rights. Therefore, I can endorse the opening up of the Government for civil liability for taxpayer abuse. This bill would extend the liability of the government for IRS abuse caused by those who may negligently disregard our tax laws. This is a safeguard that I know taxpayers are demanding and one that I strongly support.

The establishment of an independent oversight board by the President is another provision in my bill as well. There is no doubt that such oversight of the administrative functions of the IRS is necessary after the disclosure of the atrocities that I heard and the stories that came forward from the citizens in Houston. There were, in fact, cases of possible suicide over the tactics that were used and it is time to end such abuses. The oversight board will have the responsibility to review and advise the Secretary of the Treasury about customer service measures that will make sense. Such oversight is necessary if we are to make the IRS more efficient.

Shifting the burden of proof to the IRS is another practical measure that makes good sense and one that is in my bill as well. In every other proceeding where the government is moving against a citizen in a court of law, the government bears the burden of proving the facts. It is high time that the IRS come in line with this time-honored tradition of the government bearing the burden of proving any factual issue it is asserting in a court of law.

This burden of proof will be enforced after the taxpayer has fully cooperated with the IRS with respect to the factual issue. A taxpayer would be required to provide access to the information, witnesses and documents within the control of the taxpayer. This makes the proceeding more in line with every other court proceeding and makes it fair.

This bill would also correct meaningful measures that will insure taxpayer fairness in IRS audits and collection activities. The common law privilege of attorney-client privilege for those tax advisors authorized to practice

before the IRS will now be afforded as it should be. It would also end the use and abuse of summons by the IRS in looking for documents. Under this bill the IRS would be required to make reasonable inquiries and could not issue a summons until it has used other reasonable methods to ascertain where the information it is seeking may be.

The bill also provides for making more information available to the taxpayers. It requires the IRS to print and make available to taxpayers explanations that make sense and clarify a variety of complicated matters. Married taxpayers will be alerted to liabilities that they would be jointly liable for even though only one spouse earned the income.

A spouse who may be innocent for the mistakes of another spouse in preparing a tax return will also now be afforded relief from tax liability, interest and penalties. Now a spouse who has nothing to do with the preparation of the return is fully liable for the mistakes. This wrong and would be corrected by this bill.

Again, Mr. Speaker, it is high time that we have the IRS reform that the American people have been calling for. I support this bill and urge my colleagues to vote for it.

Mr. PORTMAN. Mr. Speaker, I ask the gentleman from New York [Mr. RANGEL] if he has any additional speakers?

Mr. RANGEL. Mr. Speaker, I have no speakers at this time.

CALL OF THE HOUSE

Mr. PORTMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 576]

ANSWERED "PRESENT"—407

Abercrombie	Brown (FL)	Davis (VA)	Fowler	Linder	Rohrabacher
Ackerman	Brown (OH)	Deal	Fox	Lipinski	Ros-Lehtinen
Aderholt	Bryant	DeFazio	Franks (NJ)	Livingston	Rothman
Allen	Bunning	DeGette	Frelenghuyzen	LoBiondo	Royal-Allard
Andrews	Burr	DeLahunt	Frost	Lofgren	Royce
Archer	Burton	DeLauro	Galllegly	Lowey	Rush
Armey	Buyer	DeLay	Ganske	Lucas	Ryun
Bachus	Callahan	DeLumis	Gejdenson	Luther	Sabo
Baesler	Calvert	Deutsch	Gephhardt	Maloney (NY)	Salmon
Baker	Camp	Dickey	Gibbons	Manton	Sanchez
Baldacci	Campbell	Dicks	Gilchrest	Manzullo	Sanders
Ballenger	Canady	Dingell	Gillmor	Martinez	Sandlin
Barcia	Cannon	Dixon	Gilman	Mascara	Sanford
Barr	Cardin	Dellums	Goode	Matsui	Sawyer
Barrett (NE)	Carson	Deutsch	Goodlatte	McCarthy (MO)	Saxton
Barrett (WI)	Castle	Dickey	Goodling	McCarthy (NY)	Scarborough
Bartlett	Chabot	Dicks	Gordon	McCollum	Schaefer, Dan
Barton	Chambliss	Dingell	Goss	McCrery	Schaffer, Bob
Bass	Chenoweth	DeGette	Graham	McDermott	Schumer
Bateman	Christensen	DeLay	Granger	McGovern	Scott
Becerra	Clay	DeLumis	Green	McHale	Sensenbrenner
Bereuter	Clayton	Deutsch	Greenwood	McHugh	Serrano
Berman	Clement	Dickey	Gutierrez	McInnis	Sessions
Berry	Clyburn	DeLumis	Gutknecht	McIntyre	Shadegg
Bilbray	Cole	Dingell	Hall (OH)	McKeon	Shaw
Bilirakis	Coburn	Engel	Hall (TX)	McKinney	Shays
Bishop	Collins	English	Hamilton	McNulty	Sherman
Blagojevich	Combest	Ensign	Hansen	Meehan	Shimkus
Billey	Condit	Eshoo	Harman	Meek	Sisisky
Blumenauer	Conyers	Etheridge	Hastert	Menendez	Skaggs
Blunt	Cook	Evans	Hastings (FL)	Metcalf	Skeen
Boehlert	Costello	Everett	Hastings (WA)	Mica	Skelton
Boehner	Cox	Farr	Hayworth	Millender-Hilliard	Slaughter
Bonilla	Coyne	Fattah	Heffley	McDonald	Smith (NJ)
Bonior	Cramer	Fazio	Hefner	Miller (CA)	Smith (OR)
Bono	Crane	Filner	Herger	Miller (FL)	Smith (TX)
Borski	Crapo	Flake	Hill	Minge	Smith, Adam
Boswell	Cummings	Foglietta	Hilleary	Mink	Smith, Linda
Boucher	Cunningham	Foley	Hilliard	Moakley	Snowbarger
Boyd	Danner	Forbes	Hinchey	Mollohan	Snyder
Brady	Davis (FL)	Ford	Hinojosa	Moran (KS)	Solomon
Brown (CA)	Davis (IL)	Fossella	Hobson	Moran (VA)	Souder

□ 1413

The SPEAKER pro tempore (Mr. PEASE). On this rollcall, 407 Members

have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1997

The SPEAKER pro tempore. In the debate on H.R. 2676, the gentleman from New York [Mr. RANGEL] has 7½ minutes remaining and the gentleman from Ohio [Mr. PORTMAN] has 6½ minutes remaining.

The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

□ 1415

I rise in support of H.R. 2676. First, I would like to thank the chairman of the Committee on Ways and Means for creating an atmosphere which allowed the gentleman from Maryland [Mr. CARDIN] and the gentleman from Ohio [Mr. PORTMAN] to take the best that came out of the commission, not only to work with it in a bipartisan way, but to bring it to Members who did not serve on the commission so that they would be able to work and improve upon it.

The administration has had strong objections over the original document. This could have been played up politically that the President was trying to protect the status quo, but the Secretary of Treasury was not only involved in the meetings but encouraged to know that no Republican and no Democrat was locked in concrete except to the extent that the IRS needed improvement and it had to be done and it was going to be done now.

The Democratic Leader, the gentleman from Missouri [Mr. GEPHARDT], publicly said that they were not there, that the Democrats were not there, except to join with our Republican friends to get a bipartisan solution to a serious problem.

So, Mr. Speaker, we are here today for the first time in a long time knowing that we have taken one gigantic step forward to give some small comfort to the taxpayer that at least we, in the Congress, are providing the oversight to try to make the collection easier.

But, Mr. Speaker, we all agree that this is only a first step. We cannot give a very complicated, complex Tax Code to anybody and expect them not to have problems in its execution. If anyone abuses their rights as a public servant with the taxpayer, that person should be pulled up at the roots and got rid of. There should be no excuse for any public servant treating taxpayers in a disrespectful way. But there should be no excuse for us to talking about pulling up the IRS by the roots unless we are prepared to say we are going to pull up the Tax Code by the roots.

And I would want to say this, that if we can get this Portman-Cardin spirit