

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2917) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows: S. 2917

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Penalty Fairness Act of 2009".

SEC. 2. LIMITATION ON PENALTY FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS BASED ON RESULTING TAX BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 6707A of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

“(2) MAXIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

“(A) in the case of a listed transaction, \$200,000 (\$100,000 in the case of a natural person), or

“(B) in the case of any other reportable transaction, \$50,000 (\$10,000 in the case of a natural person).

“(3) MINIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any transaction shall not be less than \$10,000 (\$5,000 in the case of a natural person).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

SEC. 3. REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS.

(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

(2) Section 6700(a) (relating to promoting abusive tax shelters).

(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

(4) Section 6707A (relating to failure to include reportable transaction information with return).

(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

(1) Any action taken under section 330(b) of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than June 1, 2010.

SEC. 4. APPLICATION OF BAD CHECKS PENALTY TO ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 6657 of the Internal Revenue Code of 1986 is amended—

(1) by striking “If any check or money order in payment of any amount” and inserting “If any instrument in payment, by any commercially acceptable means, of any amount”, and

(2) by striking “such check” each place it appears and inserting “such instrument”.

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

SEC. 5. APPLICATION OF LEVY TO PAYMENTS TO FEDERAL VENDORS RELATING TO PROPERTY.

(a) IN GENERAL.—Section 6331(h)(3) of the Internal Revenue Code of 1986 is amended by striking “goods or services” and inserting “property, goods, or services”.

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

REGARDING THE DEATH OF REPRESENTATIVE JOHN P. MURTHA, OF PENNSYLVANIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 413.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 413) relative to the death of Representative John P. Murtha, of Pennsylvania.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I had the good fortune of serving with JOHN MURTHA in the House, as the Presiding Officer did. He was a brave man. He was the first to break away and was noteworthy in complaining about the Iraq war. As a result of that, it brought a lot of attention to that issue.

I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 413) was agreed to, as follows:

S. RES. 413

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John P. Murtha, late a Representative from the Commonwealth of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

ORDERS FOR THURSDAY, FEBRUARY 11, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it adjourn until 2:30 p.m. on Thursday, February 11; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the Senate will not be in session tomorrow due to the winter storm that has battered our area again, the Washington, DC area. Despite the storm, we are going to make progress on the JOBS bill. I had a good conversation earlier today with the Republican leader, Senator GRASSLEY, Senator BAUCUS, and others. We will continue to work with everyone on an agreement to move forward with this matter and Senators will reschedule any votes. I doubt seriously there will be any votes this week. It appears, from what I have been able to hear, people now cannot get planes to get here and they are having trouble getting planes to get out of here, so it has made for a very difficult situation. We will keep them informed as to what our schedule will be Monday next.

For the information of Democratic Senators, we are going to have a caucus on Thursday at 12:30, a very important caucus. We must do that. I want every member of the caucus to understand the JOBS bill, why we are moving forward. My friends, Senator DURBIN and SCHUMER—I was engaged with the Speaker and was not able to be on the floor during that vote. A number of Members have raised questions with my leadership, including Senator MURRAY. I want to make sure everyone understands clearly what is going on.

We have had a difficult time, as everyone knows, with the storms being such as they are. We were unable to have our caucus today, which would normally have given everyone the idea of what was going on, so I tell all Senators, I hope you can be here on Thursday. You certainly can't leave if you want to, the storms being such as they are. We are going to have that caucus at 12:30 on Thursday. The DPC luncheon will be put over until we get back, which is also extremely important. That is based on the retreat we had.

ADJOURNMENT UNTIL THURSDAY, FEBRUARY 11, 2010

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order under the provisions of S. Res. 413, as a further mark of respect for the late Congressman JOHN MURTHA.

There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, February 11, 2010, at 2:30 p.m.

CONFIRMATIONS

DEPARTMENT OF STATE

THE JUDICIARY

Executive nominations confirmed by the Senate, Tuesday, February 9, 2010:

DEPARTMENT OF DEFENSE

CLIFFORD L. STANLEY, OF PENNSYLVANIA, TO BE UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.

PHILIP S. GOLDBERG, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (INTELLIGENCE AND RESEARCH).

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

JOSEPH A. GREENAWAY, JR., OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT.