

105TH CONGRESS  
1ST SESSION

# H. R. 1227

To amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 1997

Ms. DUNN (for herself, Mr. GINGRICH, Mr. WATTS of Oklahoma, Ms. GRANGER, Mr. CHRISTENSEN, Mr. SAM JOHNSON of Texas, Mr. SNOWBARGER, Mr. METCALF, Mr. GIBBONS, Mr. ENGLISH of Pennsylvania, Mr. SHIMKUS, Mrs. EMERSON, Mr. FRANKS of New Jersey, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. HERGER, Mr. HASTINGS of Washington, Mr. BARR of Georgia, Mr. PAUL, Mr. DEAL of Georgia, Mr. CAMP, Mr. COOK, and Mr. WELLER) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Internal Revenue Serv-  
3 ice Accountability Act”.

4 **SEC. 2. CRIMINAL PENALTY FOR CERTAIN UNAUTHORIZED**  
5 **ACTIONS.**

6       (a) IN GENERAL.—Section 7214 of the Internal Rev-  
7 enue Code of 1986 (relating to offenses by officers and  
8 employees of the United States) is amended—

9           (1) by striking “or” at the end of paragraph  
10       (8),

11           (2) by adding “or” at the end of paragraph (9),

12           (3) by inserting after paragraph (9) the follow-  
13 ing new paragraph:

14           “(10) who willfully and maliciously disregards  
15 such law, or any regulation promulgated under such  
16 law, relating to any proceeding against any tax-  
17 payer;”, and

18           (4) by striking “\$10,000, or imprisoned not  
19 more than 5 years, or both” and inserting “\$10,000  
20 (\$1,000, in the case of an offense under paragraph  
21 (10)), or imprisoned not more than 5 years (1 year,  
22 in the case of an offense under paragraph (10), or  
23 both”.

24       (b) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply to actions by officers or employees  
26 after the date of the enactment of this Act.

1 **SEC. 3. INTERNAL REVENUE SERVICE EMPLOYEES PER-**  
2 **SONALLY LIABLE FOR DAMAGES AND LITIGA-**  
3 **TION COSTS IN CERTAIN CASES.**

4 (a) LITIGATION COSTS.—Section 7430 of the Inter-  
5 nal Revenue Code of 1986 (relating to awarding of costs  
6 and certain fees) is amended by adding at the end the  
7 following new subsection:

8 “(g) PERSONAL LIABILITY OF INTERNAL REVENUE  
9 SERVICE OFFICERS AND EMPLOYEES IN CERTAIN  
10 CASES.—

11 “(1) IN GENERAL.—In any proceeding in which  
12 the prevailing party is awarded a judgment for rea-  
13 sonable litigation costs under this section, the court  
14 may assess a portion of such costs against any In-  
15 ternal Revenue Service officer or employee (and such  
16 officer or employee shall not be reimbursed by the  
17 United States for the costs so assessed) if the court  
18 determines that such proceeding resulted from any  
19 arbitrary, capricious, or malicious act of such officer  
20 or employee. For purposes of this section, the term  
21 ‘officer or employee’ includes a former officer or em-  
22 ployee.

23 “(2) REPRESENTATION OF OFFICER OR EM-  
24 PLOYEE.—Upon the request of any Internal Revenue  
25 Service officer or employee, such officer or employee  
26 may be represented by the United States in any pro-

1       ceeding with respect to the issue of whether there is  
 2       to be an assessment against such officer or employee  
 3       under paragraph (1). If, in any case in which such  
 4       an officer or employee is so represented by the Unit-  
 5       ed States, it is finally determined that such officer  
 6       or employee is liable for an assessment under para-  
 7       graph (1), such officer or employee shall also be lia-  
 8       ble to repay the United States for the costs of its  
 9       representation under this paragraph.”.

10       (b) CIVIL DAMAGES AND COURT COSTS FOR FAIL-  
 11       URE TO RELEASE LIEN.—Section 7432 of the Internal  
 12       Revenue Code of 1986 (relating to civil damages for fail-  
 13       ure to release lien) is amended by adding at the end the  
 14       following new subsection:

15       “(f) PERSONAL LIABILITY OF INTERNAL REVENUE  
 16       SERVICE OFFICERS AND EMPLOYEES IN CERTAIN  
 17       CASES.—

18               “(1) IN GENERAL.—In any proceeding in which  
 19       the prevailing plaintiff is awarded a judgment under  
 20       this section for damages described in subsection (b),  
 21       the court may assess a portion of such damages  
 22       against any Internal Revenue Service officer or em-  
 23       ployee (and such officer or employee shall not be re-  
 24       imbursed by the United States for the damages so  
 25       assessed) if the court determines that such proceed-

1       ing resulted from any arbitrary, capricious, or mali-  
2       cious act of such officer or employee. For purposes  
3       of this section, the term ‘officer or employee’ in-  
4       cludes a former officer or employee.

5               “(2) REPRESENTATION OF OFFICER OR EM-  
6       PLOYEE.—Upon the request of any Internal Revenue  
7       Service officer or employee, such officer or employee  
8       may be represented by the United States in any pro-  
9       ceeding with respect to the issue of whether there is  
10      to be an assessment against such officer or employee  
11      under paragraph (1). If, in any case in which such  
12      an officer or employee is so represented by the Unit-  
13      ed States, it is finally determined that such officer  
14      or employee is liable for an assessment under para-  
15      graph (1), such officer or employee shall also be lia-  
16      ble to repay the United States for the costs of its  
17      representation under this paragraph.”.

18       (c) CIVIL DAMAGES AND COURT COSTS FOR CERTAIN  
19      UNAUTHORIZED COLLECTION ACTIONS.—Section 7433 of  
20      the Internal Revenue Code of 1986 (relating to civil dam-  
21      ages for certain unauthorized collection actions) is amend-  
22      ed by adding at the end the following new subsection:

23               “(e) PERSONAL LIABILITY OF INTERNAL REVENUE  
24      SERVICE OFFICERS AND EMPLOYEES IN CERTAIN  
25      CASES.—

1           “(1) IN GENERAL.—In any proceeding in which  
2           the prevailing plaintiff is awarded a judgment for  
3           damages described in subsection (b), the court may  
4           assess a portion of such damages against any Inter-  
5           nal Revenue Service officer or employee (and such  
6           officer or employee shall not be reimbursed by the  
7           United States for the damages so assessed) if the  
8           court determines that such proceeding resulted from  
9           any arbitrary, capricious, or malicious act of such  
10          officer or employee. For purposes of this section, the  
11          term ‘officer or employee’ includes a former officer  
12          or employee.

13          “(2) REPRESENTATION OF OFFICER OR EM-  
14          PLOYEE.—Upon the request of any Internal Revenue  
15          Service officer or employee, such officer or employee  
16          may be represented by the United States in any pro-  
17          ceeding with respect to the issue of whether there is  
18          to be an assessment against such officer or employee  
19          under paragraph (1). If, in any case in which such  
20          an officer or employee is so represented by the Unit-  
21          ed States, it is finally determined that such officer  
22          or employee is liable for an assessment under para-  
23          graph (1), such officer or employee shall also be lia-  
24          ble to repay the United States for the costs of its  
25          representation under this paragraph.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply in the case of proceedings com-  
 3 menced after the date of the enactment of this Act.

4 **SEC. 4. PROTECTING THE PRIVACY OF TAXPAYERS.**

5 (a) CIVIL PENALTY FOR UNAUTHORIZED ACCESS OF  
 6 RETURNS AND RETURN INFORMATION.—Section 7431 of  
 7 the Internal Revenue Code of 1986 (relating to civil dam-  
 8 ages for unauthorized disclosure of returns and return in-  
 9 formation) is amended—

10 (1) by inserting “or accesses” after “discloses”  
 11 in subsection (a)(1),

12 (2) by inserting “OR ACCESS” after “DISCLO-  
 13 SURE” in the heading for subsection (a)(1),

14 (3) by inserting “(or former officer or em-  
 15 ployee)” after “officer or employee” both places it  
 16 appears in subsection (a),

17 (4) by inserting “or access” after “disclosure”  
 18 each place it appears in subsections (b), (c)(1), and  
 19 (d),

20 (5) by inserting “the earlier of notification to  
 21 or” after “after the date of” in subsection (d), and

22 (6) by inserting “**OR ACCESS**” after “**DISCLO-**  
 23 **SURE**” in the heading.

24 (b) CRIMINAL PENALTY FOR UNAUTHORIZED AC-  
 25 CESS OF RETURNS AND RETURN INFORMATION.—Section

1 7213(a)(1) of the Internal Revenue Code of 1986 (relating  
2 to Federal employees and other persons) is amended—

3 (1) by striking “this paragraph” and inserting  
4 “this subparagraph”,

5 (2) by striking “It shall be unlawful” and in-  
6 serting the following:

7 “(A) DISCLOSURE.—It shall be unlawful”,  
8 and

9 (3) by adding at the end the following new sub-  
10 paragraph:

11 “(B) ACCESS.—It shall be unlawful for  
12 any officer, employee, or other person described  
13 in subparagraph (A) willfully to access without  
14 authorization any return or return information  
15 (as defined in section 6103(b)). Any violation of  
16 this subparagraph shall be punishable by dis-  
17 missal from office or discharge from employ-  
18 ment and, further, shall be a misdemeanor pun-  
19 ishable upon conviction by a fine in any amount  
20 not exceeding \$1,000, or imprisonment of not  
21 more than 1 year, or both, together with costs  
22 of prosecution, and, if necessary, by dismissal  
23 from office or discharge from employment.”.

24 (c) NOTIFICATION OF UNAUTHORIZED ACCESS.—  
25 Section 6103 of the Internal Revenue Code of 1986 (relat-



ing to confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

“(q) UNAUTHORIZED ACCESS PROHIBITED.—

“(1) IN GENERAL.—Except as authorized by this title, no officer or employee (or former officer or employee) of the United States shall access any return or return information.

“(2) NOTIFICATION.—Upon discovery that a taxpayer’s return or return information has been accessed in violation of paragraph (1), the taxpayer shall be notified immediately.”.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by inserting “or access” after “disclosure” in the item relating to section 7431.

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

## **SEC. 5. LIMITATIONS ON EXAMINATIONS.**

(a) IN GENERAL.—Section 7602 of the Internal Revenue Code of 1986 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

1 “(d) LIMITATIONS ON AUTHORITY TO EXAMINE.—

2 In taking any action under subsection (a), the Secretary—

3 “(1) shall demonstrate, upon demand of any  
4 person described in subsection (a), reasonable justification (and not random selection) for initiating  
5 an examination of a return, and  
6

7 “(2) shall not—

8 “(A) initiate an examination of a return or  
9 issue of a return if such return or issue of a return has previously been examined, or  
10

11 “(B) extend back an examination under  
12 subsection (a), once initiated, beyond a 3-taxable-year period ending on the day before the  
13 beginning of the taxable year which includes the  
14 date of initiation,  
15

16 except upon court approval if in the course of an investigation into possible criminal activity.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to examinations initiated after the  
20 date of the enactment of this Act.

21 **SEC. 6. EXTENSION OF TIME TO PAY TAX AFTER NOTICE**  
22 **AND DEMAND.**

23 (a) IN GENERAL.—Section 6651(a)(3) of the Internal  
24 Revenue Code of 1986 (relating to addition to the tax)

1 is amended by striking “21 calendar days” and inserting  
2 “90 calendar days”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to notices and demands given after  
5 the date of the enactment of this Act.

6 **SEC. 7. ENSURING THE INTEGRITY OF JUDICIAL PROCEED-**  
7 **INGS.**

8 (a) **IN GENERAL.**—Subchapter B of chapter 76 of the  
9 Internal Revenue Code of 1986 (relating to proceedings  
10 by taxpayers and third parties) is amended by redesignat-  
11 ing section 7436 as section 7437 and by inserting after  
12 section 7435 the following new section:

13 **“SEC. 7436. DECLARATORY JUDGMENTS RELATING TO SEC-**  
14 **RETARIAL NONACQUIESCENCE.**

15 “In a case of actual controversy involving the Sec-  
16 retary’s decision to not acquiesce with respect to conclu-  
17 sions of law in identical or similar cases to a case or cases  
18 previously decided within the same court jurisdiction or  
19 appellate circuit, upon the filing of an appropriate plead-  
20 ing and the exhaustion of administrative remedies avail-  
21 able to the petitioner within the Internal Revenue Service,  
22 the district court for such jurisdiction may make a dec-  
23 laration with respect to the Secretary’s decision. Any such  
24 declaration shall have the force and effect of a final judg-

1 ment or decree of the district court and shall be reviewable  
2 as such.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-  
4 tions for such subchapter B is amended by striking the  
5 item relating to section 7436 and inserting the following  
6 new items:

“Sec. 7436. Declaratory judgments relating to secretarial non-  
acquiescence.

“Sec. 7437. Cross references.”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to court proceedings initiated after  
9 the date of the enactment of this Act.

#### 10 **SEC. 8. LIMITATIONS ON ASSET SEIZURES AND LEVIES.**

11 (a) IN GENERAL.—Section 6331(a) of the Internal  
12 Revenue Code of 1986 (relating to levy and distraint) is  
13 amended by inserting “, upon the consent of an appro-  
14 priate court,” after “it shall be lawful for the Secretary”.

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

#### 18 **SEC. 9. NO INTEREST ON PENALTIES, ADDITIONAL** 19 **AMOUNTS, AND ADDITIONS TO TAX.**

20 (a) IN GENERAL.—Section 6601(e)(2) of the Internal  
21 Revenue Code of 1986 (relating to applicable rules) is  
22 amended to read as follows:

23 “(2) NO INTEREST ON PENALTIES, ADDITIONAL  
24 AMOUNTS, AND ADDITIONS TO TAX.—Interest shall

1 not be imposed under subsection (a) in respect of  
2 any assessable penalty, additional amount, or addi-  
3 tion to tax.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to notices and demands given after  
6 the date of the enactment of this Act.

7 **SEC. 10. INTEREST RATE FOR OVERPAYMENTS TO EQUAL**  
8 **RATE FOR UNDERPAYMENTS.**

9 (a) IN GENERAL.—Section 6621(a) of the Internal  
10 Revenue Code of 1986 (relating to determination of rate  
11 of interest) is amended to read as follows:

12 “(a) GENERAL RULE.—The overpayment rate and  
13 the underpayment rate established under this section shall  
14 be the Federal short-term rate determined under sub-  
15 section (b).”.

16 (b) CONFORMING AMENDMENT.—Section 6621 of the  
17 Internal Revenue Code of 1986 (relating to determination  
18 of rate of interest) is amended by striking subsection (c).

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply for purposes of determining inter-  
21 est to periods after the date of the enactment of this Act.

1 **SEC. 11. FAIRNESS WHEN COLLECTING A TAX DUE TO**  
2 **MATHEMATICAL AND CLERICAL ERRORS.**

3 (a) IN GENERAL.—Section 6404(d) of the Internal  
4 Revenue Code of 1986 (relating to abatements) is amend-  
5 ed to read as follows:

6 “(d) ABATEMENT OF INTEREST, PENALTY, ADDI-  
7 TIONAL AMOUNT, AND ADDITION TO TAX ATTRIBUTABLE  
8 TO CERTAIN MATHEMATICAL OR CLERICAL ERRORS.—In  
9 the case of an assessment of additional tax attributable  
10 to a mathematical or clerical error (as defined in section  
11 6213(g)(2)), the Secretary shall abate any interest, pen-  
12 alty, additional amount, and addition to tax with respect  
13 to such assessment if, within 60 days after notice of such  
14 assessment is sent under section 6213(b)(1) by certified  
15 mail or registered mail, the taxpayer pays, or files a re-  
16 quest for an abatement of, such assessment.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to notices filed after the date of  
19 the enactment of this Act.

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