

105TH CONGRESS
1ST SESSION

H. R. 367

To amend the Internal Revenue Code of 1986 to place the burden of proof on the Secretary of the Treasury in civil cases and on the taxpayer in administrative proceedings, to require 15 days notice and judicial consent before seizure, to exclude civil damages for unauthorized collection actions from income, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. TRAFICANT (for himself, Mr. NORWOOD, Mr. HEFLEY, Mr. HAYWORTH, and Mr. DUNCAN introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to place the burden of proof on the Secretary of the Treasury in civil cases and on the taxpayer in administrative proceedings, to require 15 days notice and judicial consent before seizure, to exclude civil damages for unauthorized collection actions from income, 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. BURDEN OF PROOF.**

2 (a) GENERAL RULE.—Chapter 77 of the Internal
3 Revenue Code of 1986 (relating to miscellaneous provi-
4 sions) is amended by adding at the end the following new
5 section:

6 **“SEC. 7524. BURDEN OF PROOF.**

7 “(a) ADMINISTRATIVE PROCEEDINGS.—Notwith-
8 standing any other provision of this title, in the case of
9 any administrative proceeding under this title, the burden
10 of proof with respect to all issues shall be upon the
11 taxpayer.

12 “(b) COURT PROCEEDINGS.—Notwithstanding any
13 other provision of this title, in the case of any court pro-
14 ceeding under this title, the burden of proof with respect
15 to all issues shall be upon the Secretary.”

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 77 of such Code is amended by adding at the
18 end the following new item:

“Sec. 7524. Burden of proof.”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to administrative and court pro-
21 ceedings filed on or after the date of the enactment of
22 this Act.

1 **SEC. 2. REQUIREMENT OF 15 DAYS NOTICE AND JUDICIAL**
 2 **CONSENT BEFORE SEIZURE.**

3 (a) 15-DAY NOTICE REQUIREMENT.—Subsection (a)
 4 of section 6331 of the Internal Revenue Code of 1986 is
 5 amended—

6 (1) in the first sentence, by striking “10 days”
 7 and inserting “15 days”, and

8 (2) in the last sentence, by striking “10-day pe-
 9 riod” and inserting “15-day period”.

10 (b) JUDICIAL CONSENT.—

11 (1) Subchapter D of chapter 64 of such Code
 12 is amended by redesignating section 6344 as section
 13 6345 and by inserting after section 6343 the follow-
 14 ing new section:

15 **“SEC. 6344. JUDICIAL CONSENT REQUIRED.**

16 “Notwithstanding any other provision of law, the Sec-
 17 retary may not collect any tax (or other sum) under this
 18 subchapter by levy without judicial consent.”

19 (2) CLERICAL AMENDMENT.—The table of sec-
 20 tions for subchapter D of chapter 64 of such Code
 21 is amended by striking the item relating to section
 22 6344 and inserting the following new items:

“Sec. 6344. Judicial consent required.
 “Sec. 6345. Cross references.”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxes due for taxable years be-
 3 ginning after the date of the enactment of this Act.

4 **SEC. 3. EXCLUSION FROM GROSS INCOME FOR CIVIL DAM-**
 5 **AGES FOR UNAUTHORIZED COLLECTION AC-**
 6 **TIONS.**

7 (a) IN GENERAL.—Section 7433 of the Internal Rev-
 8 enue Code of 1986 is amended by adding at the end the
 9 following new subsection:

10 “(e) EXCLUSION OF DAMAGES FROM INCOME.—
 11 Damages awarded under this section shall be excluded
 12 from gross income under this title.”

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall apply to actions by officers or employees
 15 of the Internal Revenue Service after the date of the en-
 16 actment of this Act.

17 **SEC. 4. STUDY OF REVENUE IMPACT.**

18 The Internal Revenue Service shall contract with an
 19 independent accounting firm to determine the revenue
 20 losses (if any) which result this Act.

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