

105TH CONGRESS
2D SESSION

S. 1669

To restructure the Internal Revenue Service and improve taxpayer rights,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 1998

Mr. BOND (for himself, Mr. COCHRAN, Ms. SNOWE, and Mr. SHELBY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To restructure the Internal Revenue Service and improve
taxpayer rights, 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,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Putting the Taxpayer First Act of 1998”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—

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

TITLE I—TAXPAYER RIGHTS

Sec. 101. Court approval for seizure of taxpayer's property.

Sec. 102. Improved offers-in-compromise procedure.

Sec. 103. Clarification that attorney's fees are available in unauthorized-disclosure and browsing cases.

Sec. 104. Uniform application of confidentiality privilege for taxpayer communications with federally authorized practitioners.

Sec. 105. Taxpayer's right to have an IRS examination take place at another site.

Sec. 106. Prohibition on IRS contact of third parties without taxpayer pre-notification.

Sec. 107. Expansion of taxpayer's rights in administrative appeal.

TITLE II—PENALTY REFORM

Sec. 201. Imposition of interest on penalties only after a taxpayer's failure to pay.

Sec. 202. Repeal of the penalty for substantial understatement of income tax.

Sec. 203. Repeal of the failure-to-pay penalty.

TITLE III—INTERNAL REVENUE SERVICE RESTRUCTURING

Sec. 301. Internal Revenue Service Board of Governors; Commissioner of Internal Revenue.

Sec. 302. Restructuring of IRS operations along customer lines.

Sec. 303. Greater independence of the Taxpayer Advocate.

Sec. 304. Greater independence of the Office of Appeals.

Sec. 305. Improved IRS written communications to taxpayers and tax forms.

TITLE IV—ELECTRONIC FILING

Sec. 401. Goals for electronic filing; electronic-filing advisory group.

Sec. 402. Report on electronic filing and its effect on small businesses.

TITLE V—REGULATORY REFORM

Sec. 501. Congressional review of Internal Revenue Service rules that increase revenue.

Sec. 502. Small business advocacy panels for the IRS.

Sec. 503. Taxpayer's election with respect to recovery of costs and certain fees.

1 **TITLE I—TAXPAYER RIGHTS**

2 **SEC. 101. COURT APPROVAL FOR SEIZURE OF TAXPAYER’S**
3 **PROPERTY.**

4 (a) IN GENERAL.—Section 6331(a) is amended by
5 adding at the end the following new paragraph:

6 “(2) LIMITATION ON AUTHORITY OF SEC-
7 RETARY.—Notwithstanding paragraph (1)—

8 “(A) GENERAL RULE.—The Secretary
9 shall not levy upon any property or rights to
10 property until—

11 “(i) the taxpayer has received the no-
12 tice described in subsection (a) which noti-
13 fies the taxpayer of the opportunity for ju-
14 dicial review under this subparagraph and
15 advises the taxpayer that criminal pen-
16 alties may be imposed if the property is
17 transferred or otherwise made unavailable
18 for collection while such review is pending,
19 and

20 “(ii) a court of competent jurisdiction
21 has determined, after the taxpayer has re-
22 ceived notice and an opportunity for a
23 hearing, that such levy is reasonable under
24 the circumstances.

1 “(B) EXCEPTION.—A court may waive the
 2 right to notice and hearing under subparagraph
 3 (A) if the Secretary demonstrates to the court’s
 4 satisfaction that—

5 “(i) irreparable harm will occur with
 6 respect to the Secretary’s ability to collect
 7 the tax if relief is not granted,

8 “(ii) the Secretary has provided the
 9 taxpayer with notice and demand pursuant
 10 to section 6303(a),

11 “(iii) the taxpayer has neglected or re-
 12 fused to pay the tax within 10 days after
 13 notice and demand, and

14 “(iv) the Secretary has a reasonable
 15 probability of success on the merits with
 16 regard to the taxpayer’s liability for the
 17 tax.”

18 (b) CONFORMING AMENDMENT.—Section 6331(a) is
 19 amended by striking “If any person” and inserting:

20 “(1) IN GENERAL.—If any person”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall be effective for levies occurring on or
 23 after the date of the enactment of this Act.

1 **SEC. 102. IMPROVED OFFERS-IN-COMPROMISE PROCE-**
2 **DURE.**

3 (a) IN GENERAL.—Section 7122 (relating to com-
4 promises) is amended by adding at the end the following
5 new subsection:

6 “(c) OFFERS IN COMPROMISE.—

7 “(1) IN GENERAL.—If the Secretary receives an
8 offer in compromise which is based on the taxpayer’s
9 inability to pay the taxpayer’s tax liability in full,
10 the Secretary shall accept such offer in compromise
11 if it reasonably reflects the taxpayer’s ability to pay.

12 “(2) TIMELY RESPONSE.—

13 “(A) GENERAL RULE.—The Secretary
14 shall accept, reject, or make a counteroffer to
15 an offer in compromise described in paragraph
16 (1) within 120 days from the date that the
17 offer is filed and reasonable documentation is
18 submitted regarding the taxpayer’s ability to
19 pay.

20 “(B) FAILURE TO RESPOND.—If the Sec-
21 retary fails to respond within such time, inter-
22 est on the underpayment under section 6601(a)
23 shall be suspended until such date as the Sec-
24 retary responds. This subparagraph shall not
25 apply if the Secretary reasonably determines

1 that the taxpayer’s offer in compromise is frivo-
2 lous.

3 “(C) UNACCEPTABLE OFFERS.—If the
4 Secretary does not accept an offer in com-
5 promise from a taxpayer—

6 “(i) the Secretary shall provide a de-
7 tailed description of the reasons that the
8 offer was not accepted, and

9 “(ii) the taxpayer may appeal the Sec-
10 retary’s determination to the Office of Ap-
11 peals.

12 “(3) REGULATIONS.—The Secretary shall pre-
13 scribe such regulations as may be necessary to carry
14 out the purposes of this subsection, including regula-
15 tions—

16 “(A) establishing standards for acceptable
17 offers in compromise based on the economic re-
18 ality of the taxpayer’s ability to pay, and

19 “(B) providing for the application of this
20 subsection to offers in compromise made by
21 small businesses and the self-employed.”

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective for offers in compromise filed
24 after the date of the enactment of this Act.

1 **SEC. 103. CLARIFICATION THAT ATTORNEY'S FEES ARE**
2 **AVAILABLE IN UNAUTHORIZED-DISCLOSURE**
3 **AND BROWSING CASES.**

4 (a) IN GENERAL.—Subsection (a) of section 7430
5 (relating to awarding of costs and certain fees) is amended
6 to read as follows:

7 “(a) IN GENERAL.—In any administrative or court
8 proceeding which is brought by or against the United
9 States in connection with the determination, collection, or
10 refund of any tax, interest, or penalty under this title (in-
11 cluding any civil action under section 7431), the prevailing
12 party may be awarded a judgment or settlement for—

13 “(1) reasonable administrative costs incurred in
14 connection with such administrative proceeding with-
15 in the Internal Revenue Service, and

16 “(2) reasonable litigation costs incurred in con-
17 nection with such court proceeding.”

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall be effective for any proceeding which—

20 (1) arises after the date of the enactment of
21 this Act, or

22 (2) arises on or before such date and which
23 does not become final before the 30th day after such
24 date.

1 **SEC. 104. UNIFORM APPLICATION OF CONFIDENTIALITY**
 2 **PRIVILEGE FOR TAXPAYER COMMUNICA-**
 3 **TIONS WITH FEDERALLY AUTHORIZED PRAC-**
 4 **TITIONERS.**

5 (a) IN GENERAL.—Chapter 77 (relating to mis-
 6 cellaneous provisions) is amended by adding at the end
 7 the following new section:

8 **“SEC. 7525. UNIFORM APPLICATION OF CONFIDENTIALITY**
 9 **PRIVILEGE FOR TAXPAYER COMMUNICA-**
 10 **TIONS WITH FEDERALLY AUTHORIZED PRAC-**
 11 **TITIONERS.**

12 “(a) GENERAL RULE.—With respect to tax advice,
 13 the same common law protections of confidentiality which
 14 apply to a communication between a taxpayer and an at-
 15 torney shall also apply to a communication between a tax-
 16 payer and any federally authorized tax practitioner if the
 17 communication would be considered a privileged commu-
 18 nication if it were between a taxpayer and an attorney.

19 “(b) LIMITATIONS.—Subsection (a) may only be as-
 20 serted in—

21 “(1) noncriminal tax matters before the Inter-
 22 nal Revenue Service, and

23 “(2) proceedings in Federal courts with respect
 24 to such matters.

25 “(c) FEDERALLY AUTHORIZED TAX PRACTI-
 26 TIONER.—For purposes of this section, the term ‘federally

1 authorized tax practitioner’ means any individual who is
 2 authorized under Federal law to practice before the Inter-
 3 nal Revenue Service but only if such practice is subject
 4 to Federal regulation under section 330 of title 31, United
 5 States Code.”

6 (b) CONFORMING AMENDMENT.—The table of sec-
 7 tions for chapter 77 is amended by adding at the end the
 8 following new item:

“Sec. 7525. Uniform application of confidentiality privilege for
 taxpayer communications with federally authorized
 practitioners.”

9 **SEC. 105. TAXPAYER’S RIGHT TO HAVE AN IRS EXAMINA-**
 10 **TION TAKE PLACE AT ANOTHER SITE.**

11 (a) IN GENERAL.—Subsection (a) of section 7605
 12 (relating to time and place of examination) is amended
 13 to read as follows:

14 “(a) TIME AND PLACE.—

15 “(1) IN GENERAL.—The time and place of ex-
 16 amination pursuant to the provisions of section
 17 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be
 18 such time and place as may be fixed by the Sec-
 19 retary and as are reasonable under the cir-
 20 cumstances. In the case of a summons under author-
 21 ity of paragraph (2) of section 7602, or under the
 22 corresponding authority of section 6420(e)(2),
 23 6421(g)(2), or 6427(j)(2), the date fixed for appear-

1 ance before the Secretary shall not be less than 10
2 days from the date of the summons.

3 “(2) LIMITATION.—Upon request of a taxpayer,
4 the Secretary shall conduct any examination de-
5 scribed in paragraph (1) at a location other than the
6 taxpayer’s residence or place of business, if such lo-
7 cation is reasonably accessible to the Secretary and
8 the taxpayer’s original books and records pertinent
9 to the examination are available at such location.”

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall be effective for examinations occurring
12 after the date of the enactment of this Act.

13 **SEC. 106. PROHIBITION ON IRS CONTACT OF THIRD PAR-**
14 **TIES WITHOUT TAXPAYER PRE-NOTIFICA-**
15 **TION.**

16 (a) IN GENERAL.—Section 7602 (relating to exam-
17 ination of books and witnesses) is amended by redesignat-
18 ing subsection (c) as subsection (d) and by inserting after
19 subsection (b) the following new subsection:

20 “(c) LIMITATION OF AUTHORITY TO SUMMON.—In
21 the case of a taxpayer engaged in a trade or business, no
22 summons concerning such trade or business may be issued
23 under this title with respect to any person other than such
24 taxpayer without providing reasonable notice to the tax-
25 payer that such summons will be issued. This subsection

1 shall not apply if the Secretary determines for good cause
2 shown that such notice would jeopardize collection of any
3 tax or any pending criminal investigation.”

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall be effective for summons issued after the
6 date of the enactment of this Act.

7 **SEC. 107. EXPANSION OF TAXPAYER’S RIGHTS IN ADMINIS-**
8 **TRATIVE APPEAL.**

9 (a) IN GENERAL.—Subchapter B of chapter 63 (re-
10 lating to assessment) is amended by adding before section
11 6212 the following new section:

12 **“SEC. 6211A. NOTICE OF PROPOSED ADJUSTMENT.**

13 “(a) INCOME TAXES.—At least 60 days prior to
14 issuing a notice of deficiency under section 6212, the Sec-
15 retary shall send a notice explaining the adjustments that
16 the Secretary believes should be made to the amount
17 shown as tax by the taxpayer on his return that would
18 result in a deficiency. If the taxpayer does not agree with
19 the Secretary’s proposed adjustments, the taxpayer may
20 appeal such proposed adjustments to the Office of Ap-
21 peals.

22 “(b) ADDRESS FOR NOTICE OF PROPOSED ADJUST-
23 MENT.—The provisions of section 6212(b) shall apply with
24 respect to mailing of the notice of proposed adjustment
25 described in subsection (a).”

1 (b) EMPLOYMENT TAXES.—Section 6205(b) is
 2 amended—

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

5 “(2) NOTICE OF PROPOSED ASSESSMENT.—At
 6 least 60 days prior to making any assessment with
 7 respect to paragraph (1), the Secretary shall send a
 8 notice of proposed assessment (mailed to the tax-
 9 payer at its last known address) explaining the ad-
 10 justments that the Secretary believes should be
 11 made to the amount paid or deducted with respect
 12 to any payment of wages or compensation which
 13 would result in an underpayment. If the taxpayer
 14 disagrees with the Secretary’s adjustments, the tax-
 15 payer may appeal such adjustments to the Office of
 16 Appeals.”, and

17 (2) by striking “If less than” and inserting:

18 “(1) IN GENERAL.—If less than”.

19 (b) CONFORMING AMENDMENTS.—The table of sec-
 20 tions for subchapter B of chapter 63 is amended by insert-
 21 ing the following new item:

“Sec. 6211A. Notice of proposed adjustment.”

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall be effective 60 days after the date of
 24 the enactment of this Act.

1 **TITLE II—PENALTY REFORM**

2 **SEC. 201. IMPOSITION OF INTEREST ON PENALTIES ONLY**

3 **AFTER A TAXPAYER’S FAILURE TO PAY.**

4 (a) IN GENERAL.—Section 6601(e)(2) is amended to
5 read as follows:

6 “(2) INTEREST ON PENALTIES, ADDITIONAL
7 AMOUNTS, OR ADDITIONS TO THE TAX.—Interest
8 shall be imposed under subsection (a) in respect of
9 any assessable penalty, additional amount, or addi-
10 tion to the tax only if such assessable penalty, addi-
11 tional amount, or addition to the tax is not paid
12 within 21 calendar days from the date of notice and
13 demand therefor (10 business days if the amount for
14 which such notice and demand is made equals or ex-
15 ceeds \$100,000), and in such case interest shall be
16 imposed only for the period from the date of the no-
17 tice and demand to the date of payment.”

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall be effective for penalties assessed after
20 the date of the enactment of this Act.

21 **SEC. 202. REPEAL OF THE PENALTY FOR SUBSTANTIAL UN-**

22 **DERSTATEMENT OF INCOME TAX.**

23 (a) IN GENERAL.—Subsection (d) of section 6662 is
24 repealed.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 6662(b) is amended by striking
2 paragraph (2) and redesignating paragraphs (3),
3 (4), and (5) as paragraphs (2), (3), and (4), respec-
4 tively.

5 (2) Section 6662 is amended by redesignating
6 subsections (e), (f), (g), and (h) as subsections (d),
7 (e), (f), and (g), respectively.

8 (3) Section 461(i)(3)(C) is amended to read as
9 follows:

10 “(C) any partnership or other entity, any
11 investment plan or arrangement, or any other
12 plan or arrangement if a significant purpose of
13 such partnership, entity, plan, or arrangement
14 is the avoidance or evasion of Federal income
15 tax.”

16 (4) Section 1274(b)(3)(B)(i) is amended by
17 striking “section 6662(d)(2)(C)(iii)” and inserting
18 “section 461(i)(3)(C)”.

19 (5) Section 6013(e)(3) is amended to read as
20 follows:

21 “(3) SUBSTANTIAL UNDERSTATEMENT.—

22 “(A) IN GENERAL.—For purposes of this
23 subsection, the term ‘substantial understate-
24 ment’ means any understatement which exceeds
25 \$500.

1 “(B) UNDERSTATEMENT.—For purposes
2 of subparagraph (A), the term “understate-
3 ment” means the excess of—

4 “(i) the amount of the tax required to
5 be shown on the return for the taxable
6 year, over

7 “(ii) the amount of the tax imposed
8 which is shown on the return, reduced by
9 any rebate (within the meaning of section
10 6211(b)(2)).

11 “(C) REDUCTION FOR UNDERSTATEMENT
12 DUE TO POSITION OF TAXPAYER OR DISCLOSED
13 ITEM.—The amount of the understatement
14 under subparagraph (B) shall be reduced by
15 that portion of the understatement which is at-
16 tributable to—

17 “(i) the tax treatment of any item by
18 the taxpayer if there is or was substantial
19 authority for such treatment, or

20 “(ii) any item if—

21 “(I) the relevant facts affecting
22 the item’s tax treatment are ade-
23 quately disclosed in the return or in a
24 statement attached to the return, and

1 “(II) there is a reasonable basis
 2 for the tax treatment of such item by
 3 the taxpayer.

4 “(D) SPECIAL RULES IN CASES INVOLVING
 5 TAX SHELTERS.—

6 “(i) IN GENERAL.—In the case of any
 7 item of a taxpayer which is attributable to
 8 a tax shelter—

9 “(I) subparagraph (C)(ii) shall
 10 not apply, and

11 “(II) subparagraph (C)(i) shall
 12 not apply unless (in addition to meet-
 13 ing the requirements of such subpara-
 14 graph) the taxpayer reasonably be-
 15 lieved that the tax treatment of such
 16 item by the taxpayer was more likely
 17 than not the proper treatment.

18 “(ii) TAX SHELTER.—For purposes of
 19 this subparagraph, the term ‘tax shelter’
 20 has the meaning given such term by sec-
 21 tion 461(i)(3)(C).

22 “(E) SECRETARIAL LIST.—The Secretary
 23 shall prescribe (and revise not less frequently
 24 than annually) a list of positions—

1 “(i) for which the Secretary believes
2 there is not substantial authority, and

3 “(ii) which affect a significant number
4 of taxpayers.

5 Such list (and any revision thereof) shall be
6 published in the Federal Register.”

7 (6) Section 6694(a) is amended—

8 (A) by striking “section 6662(d)(2)(B)(ii)”
9 and inserting “section 6013(e)(3)(C)(ii)” in
10 paragraph (3), and

11 (B) by adding at the end the following:
12 “For purposes of paragraph (3), in applying
13 section 6013(e)(3)(C)(ii)(II), in no event shall a
14 corporation be treated as having a reasonable
15 basis for its tax treatment of an item attrib-
16 utable to a multiple-party financing transaction
17 if such treatment does not clearly reflect the in-
18 come of the corporation.”

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

22 **SEC. 203. REPEAL OF THE FAILURE-TO-PAY PENALTY.**

23 (a) IN GENERAL.—Section 6651(a) is amended by
24 striking paragraphs (2) and (3).

1 (b) CONFORMING AMENDMENTS TO SECTION
2 6651.—

3 (1) Section 6651(a) is amended—

4 (A) by striking “In the case of failure—
5 “(1) to” and inserting “In the case of failure
6 to”, and

7 (B) by striking the semicolon at the end of
8 paragraph (1) and inserting a period.

9 (2) Section 6651(b) is amended—

10 (A) by striking “For purposes of—
11 “(1) subsection (a)(1)” and inserting “For pur-
12 poses of subsection (a)”,

13 (B) by striking the comma at the end of
14 paragraph (1) and inserting a period, and

15 (C) by striking paragraphs (2) and (3).

16 (3) Section 6651 is amended by striking sub-
17 sections (c), (d), and (e).

18 (4) Section 6651(f) is amended by striking
19 “paragraph (1) of”.

20 (5) Section 6651(g) is amended to read as fol-
21 lows:

22 “(g) TREATMENT OF RETURNS PREPARED BY SEC-
23 RETARY UNDER SECTION 6020(b).—In the case of any
24 return made by the Secretary under section 6020(b), such

1 return shall be disregarded for purposes of determining
 2 the amount of the addition under subsection (a).”

3 (6) Section 6651, as amended by paragraphs
 4 (3) and (4), is amended by redesignating subsections
 5 (f) and (g) as subsections (c) and (d), respectively.

6 (7) The heading of section 6651 is amended to
 7 read as follows:

8 **“SEC. 6651. FAILURE TO FILE TAX RETURN.”**

9 (8) The table of sections for subchapter A of
 10 chapter 68 is amended by striking the item relating
 11 to section 6651 and inserting the following new
 12 item:

“Sec. 6651. Failure to file tax return.”

13 (9) Section 5684(c)(2) is amended by striking
 14 “or pay tax”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall be effective for failures to pay occurring
 17 after the date of the enactment of this Act.

18 **TITLE III—INTERNAL REVENUE** 19 **SERVICE RESTRUCTURING**

20 **SEC. 301. INTERNAL REVENUE SERVICE BOARD OF GOV-**
 21 **ERNORS; COMMISSIONER OF INTERNAL REV-**
 22 **ENUE.**

23 (a) IN GENERAL.—Chapter 80 (relating to general
 24 rules) is amended by adding after section 7801 the follow-
 25 ing new section:

1 **“SEC. 7801A. INTERNAL REVENUE SERVICE BOARD OF GOV-**
 2 **ERNORS; COMMISSIONER OF INTERNAL REV-**
 3 **ENUE.**

4 “(a) INTERNAL REVENUE SERVICE BOARD OF GOV-
 5 ERNORS.—

6 “(1) ESTABLISHMENT.—There is established
 7 within the Department of the Treasury the Internal
 8 Revenue Service Board of Governors (in this title re-
 9 ferred to as the ‘Board’).

10 “(2) MEMBERSHIP.—

11 “(A) COMPOSITION.—The Board shall be
 12 composed of 5 members, of whom—

13 “(i) 4 shall be individuals who are ap-
 14 pointed by the President, by and with the
 15 advice and consent of the Senate, and

16 “(ii) 1 shall be the Commissioner of
 17 Internal Revenue.

18 Not more than 2 members of the Board ap-
 19 pointed under clause (i) may be affiliated with
 20 the same political party.

21 “(B) QUALIFICATIONS.—Members of the
 22 Board described in subparagraph (A)(i) shall be
 23 appointed solely on the basis of their profes-
 24 sional experience and expertise in the following
 25 areas:

1 “(i) The needs and concerns of tax-
2 payers.

3 “(ii) Organization development.

4 “(iii) Customer service.

5 “(iv) Operation of small businesses.

6 “(v) Management of large businesses.

7 “(vi) Information technology.

8 “(vii) Compliance.

9 In the aggregate, the members of the Board de-
10 scribed in subparagraph (A)(i) should collec-
11 tively bring to bear expertise in these enumer-
12 ated areas.

13 “(C) TERMS.—Each member who is de-
14 scribed in subparagraph (A)(i) shall be ap-
15 pointed for a term of 5 years, except that of the
16 members first appointed—

17 “(i) 1 member who is affiliated with
18 the same political party as the President
19 shall be appointed for a term of 1 year,

20 “(ii) 1 member who is not affiliated
21 with the same political party as the Presi-
22 dent shall be appointed for a term of 2
23 years,

24 “(iii) 1 member who is affiliated with
25 the same political party as the President

1 shall be appointed for a term of 3 years,
2 and

3 “(iv) 1 member who is not affiliated
4 with the same political party as the Presi-
5 dent shall be appointed for a term of 4
6 years.

7 A member of the Board may serve on the
8 Board after the expiration of the member’s
9 term until a successor has taken office as a
10 member of the Board.

11 “(D) REAPPOINTMENT.—An individual
12 who is described in subparagraph (A)(i) may be
13 appointed to no more than two 5-year terms on
14 the Board.

15 “(E) VACANCY.—Any vacancy on the
16 Board—

17 “(i) shall not affect the powers of the
18 Board, and

19 “(ii) shall be filled in the same man-
20 ner as the original appointment.

21 Any member appointed to fill a vacancy occur-
22 ring before the expiration of the term for which
23 the member’s predecessor was appointed shall
24 be appointed for the remainder of that term.

25 “(F) REMOVAL.—

1 “(i) IN GENERAL.—A member of the
 2 Board may be removed at the will of the
 3 President.

4 “(ii) COMMISSIONER OF INTERNAL
 5 REVENUE.—An individual described in
 6 subparagraph (A)(ii) shall be removed
 7 upon termination of employment.

8 “(3) GENERAL RESPONSIBILITIES.—

9 “(A) IN GENERAL.—The Board shall over-
 10 see the Internal Revenue Service in the admin-
 11 istration, management, conduct, direction, and
 12 supervision of the execution and application of
 13 the internal revenue laws or related statutes
 14 and tax conventions to which the United States
 15 is a party.

16 “(B) CONSULTATION ON TAX POLICY.—
 17 The Board shall be responsible for consulting
 18 with the Secretary of the Treasury with respect
 19 to the development and formulation of Federal
 20 tax policy relating to existing or proposed inter-
 21 nal revenue laws, related statutes, and tax con-
 22 ventions.

23 “(4) SPECIFIC RESPONSIBILITIES.—The Board
 24 shall have the following specific responsibilities:

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

4 “(i) mission and objectives, and stand-
5 ards of performance relative to either, and

6 “(ii) annual and long-range strategic
7 plans.

8 “(B) OPERATIONAL PLANS.—To review
9 and approve the operational functions of the In-
10 ternal Revenue Service, including—

11 “(i) plans for modernization of the tax
12 system,

13 “(ii) plans for outsourcing or man-
14 aged competition, and

15 “(iii) plans for training and education.

16 “(C) MANAGEMENT.—To—

17 “(i) review and approve the Commis-
18 sioner’s selection, evaluation, and com-
19 pensation of senior managers,

20 “(ii) oversee the operation of the Of-
21 fice of the Taxpayer Advocate and the Of-
22 fice of Appeals, and

23 “(iii) review and approve the Commis-
24 sioner’s plans for reorganization of the In-
25 ternal Revenue Service.

1 “(D) BUDGET.—To—

2 “(i) review and approve the budget re-
3 quest of the Internal Revenue Service pre-
4 pared by the Commissioner,

5 “(ii) submit such budget request to
6 the Secretary of the Treasury,

7 “(iii) ensure that the budget request
8 supports the annual and long-range strate-
9 gic plans of the Internal Revenue Service,
10 and

11 “(iv) ensure appropriate financial au-
12 dits of the Internal Revenue Service.

13 The Secretary shall submit, without revision,
14 the budget request referred to in subparagraph
15 (D) for any fiscal year to the President who
16 shall submit, without revision, such request to
17 Congress together with the President’s annual
18 budget request for the Internal Revenue Service
19 for such fiscal year.

20 “(5) BOARD PERSONNEL MATTERS.—

21 “(A) COMPENSATION OF MEMBERS.—Each
22 member of the Board who is described in sub-
23 section (b)(1)(A)(i) shall be compensated at an
24 annual rate equal to the rate for Executive
25 Schedule IV under title 5 of the United States

1 Code. The Commissioner shall receive no addi-
2 tional compensation for service on the Board.

3 “(B) STAFF.—The Chairperson of the
4 Board shall have the authority to hire such per-
5 sonnel as may be necessary to enable the Board
6 to perform its duties.

7 “(6) ADMINISTRATIVE MATTERS.—

8 “(A) CHAIR.—The Commissioner of Inter-
9 nal Revenue shall serve as the chairperson of
10 the Board.

11 “(B) COMMITTEES.—The Board may es-
12 tablish such committees as the Board deter-
13 mines appropriate.

14 “(C) MEETINGS.—The Board shall meet at
15 least once each month and at such other times
16 as the Board determines appropriate.

17 “(D) QUORUM; VOTING REQUIREMENTS;
18 DELEGATION OF AUTHORITIES.—3 members of
19 the Board shall constitute a quorum. All deci-
20 sions of the Board with respect to the exercise
21 of its duties and powers under this section shall
22 be made by a majority vote of the members
23 present and voting. A member of the Board
24 may not delegate to any person the member’s
25 vote or any decisionmaking authority or duty

1 vested in the Board by the provisions of this
2 section.

3 “(E) REPORTS.—The Board shall each
4 year report to the President and the Congress
5 with respect to the conduct of its responsibil-
6 ities under this title.

7 “(b) COMMISSIONER OF INTERNAL REVENUE.—

8 “(1) APPOINTMENT.—There shall be in the De-
9 partment of the Treasury a Commissioner of Inter-
10 nal Revenue who shall be appointed by the Presi-
11 dent, by and with the advice and consent of the Sen-
12 ate, to a 5-year term. The appointment shall be
13 made without regard to political affiliation or activ-
14 ity.

15 “(2) VACANCY.—Any individual appointed to
16 fill a vacancy in the position of Commissioner occur-
17 ring before the expiration of the term for which such
18 individual’s predecessor was appointed shall be ap-
19 pointed for the remainder of that term.

20 “(3) REMOVAL.—The Commissioner may be re-
21 moved at the will of the President.

22 “(4) DUTIES.—Subject to the powers of the
23 Board, the Commissioner shall have such duties and
24 powers as the Secretary may prescribe, including the
25 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 (after consultation with the Board) a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President (after consultation with the Board) 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 Finance, Appropriations, and Governmental Affairs of the Senate, the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, and the Joint Committee on Taxation.

“(5) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Board on all matters set forth in subsection (a)(4).”

(b) CONFORMING AMENDMENTS.—

1 (1) Section 5315 of title 5, United States Code,
2 is amended by adding at the end the following new
3 item:

 “Members, Internal Revenue Service Board of Governors.”

4 (2) Section 7701(a) (relating to definitions) is
5 amended by inserting after paragraph (46) the fol-
6 lowing new paragraph:

7 “(47) BOARD.—The term ‘Board’ means the
8 Board of Governors of the Internal Revenue Serv-
9 ice.”

10 (3) The table of sections for subchapter A of
11 chapter 80 is amended by inserting after the item
12 relating to section 7801 the following new item:

 “Sec. 7801A. Internal Revenue Service Board of Governors;
 Commissioner of Internal Revenue.”

13 (c) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall take effect on the date of the en-
16 actment of this Act.

17 (2) NOMINATIONS TO INTERNAL REVENUE
18 SERVICE BOARD OF GOVERNORS.—The President
19 shall submit nominations under section 7801A(a) of
20 the Internal Revenue Code of 1986, as added by this
21 section, to the Senate not later than 6 months after
22 the date of the enactment of this Act.

1 (3) CURRENT COMMISSIONER.—In the case of
 2 an individual serving as Commissioner of Internal
 3 Revenue on the date of the enactment of this Act
 4 who was appointed to such position before such date,
 5 the 5-year term required by section 7801A(b)(1) of
 6 the Internal Revenue Code of 1986, as added by this
 7 section, shall begin as of the date of such appoint-
 8 ment.

9 **SEC. 302. RESTRUCTURING OF IRS OPERATIONS ALONG**
 10 **CUSTOMER LINES.**

11 (a) IN GENERAL.—Subsection (a) of section 7802
 12 (relating to the Commissioner of Internal Revenue) is
 13 amended to read as follows:

14 “(a) ORGANIZATION OF THE INTERNAL REVENUE
 15 SERVICE.—

16 “(1) IN GENERAL.—The Internal Revenue
 17 Service shall be organized into divisions representing
 18 the following types of taxpayers:

19 “(A) Individual taxpayers subject to wage
 20 withholding.

21 “(B) Small businesses and self-employed
 22 individuals.

23 “(C) Large businesses.

24 “(D) Employee plans and exempt organi-
 25 zations.

1 “(E) Trusts and estates.

2 “(F) Such other divisions as the Board
3 deems necessary and appropriate.

4 “(2) SUPERVISION AND DIRECTION OF DIVI-
5 SIONS.—Each division established by paragraph (1)
6 shall be under the supervision and direction of an
7 Assistant Commissioner of Internal Revenue. As the
8 head of a division, each Assistant Commissioner
9 shall be responsible for carrying out the functions of
10 taxpayer services, examinations, collections, counsel
11 operations, and such other functions as the Board
12 may designate with respect to the taxpayers covered
13 by the division.”

14 (b) CONFORMING AMENDMENTS.—

15 (1) The section heading for section 7802 is
16 amended to read as follows:

17 **“SEC. 7802. ORGANIZATION OF THE INTERNAL REVENUE**
18 **SERVICE; TAXPAYER ADVOCATE; OFFICE OF**
19 **APPEALS.”**

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

“Sec. 7802. Organization of the Internal Revenue Service; Tax-
payer Advocate; Office of Appeals.”

1 (3) Subsection (b) of section 5109 of title 5,
 2 United States Code, is amended by striking “the
 3 employee appointed under section 7802(b)” and in-
 4 serting “an employee appointed under section
 5 7802(a)(2)”.

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

9 **SEC. 303. GREATER INDEPENDENCE OF THE TAXPAYER AD-**
 10 **VOCATE.**

11 (a) IN GENERAL.—Section 7802(d)(1) is amended to
 12 read as follows:

13 “(1) IN GENERAL.—There is established in the
 14 Internal Revenue Service an office to be known as
 15 the ‘Office of the Taxpayer Advocate’. Such office
 16 shall be independent of all other functions of the In-
 17 ternal Revenue Service and shall be under the super-
 18 vision and direction of an official to be known as the
 19 ‘Taxpayer Advocate’ who shall be appointed by, and
 20 report directly to, the Board. The Taxpayer Advo-
 21 cate shall be entitled to compensation at the same
 22 rate as the highest level official reporting directly to
 23 the Commissioner of the Internal Revenue.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 7802, as amended by subsection
 2 (a), is amended by striking subsection (b) and by re-
 3 designating subsection (d) as subsection (b).

4 (2) Section 7802(b)(3), as so redesignated, is
 5 amended—

6 (A) by striking “Commissioner of Internal
 7 Revenue” and inserting “Board”, and

8 (B) by striking “Commissioner” each place
 9 it appears in the text and heading and inserting
 10 “Board”.

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

14 **SEC. 304. GREATER INDEPENDENCE OF THE OFFICE OF AP-**
 15 **PEALS.**

16 (a) IN GENERAL.—Section 7802(c) is amended to
 17 read as follows:

18 “(c) OFFICE OF APPEALS.—

19 “(1) IN GENERAL.—There is established in the
 20 Internal Revenue Service an office to be known as
 21 the ‘Office of Appeals’. Such office shall be inde-
 22 pendent of all other functions of the Internal Reve-
 23 nue Service and shall be under the supervision and
 24 direction of an officer to be known as the ‘National
 25 Appeals Officer’ who shall be appointed by, and re-

port directly to, the Board. The National Appeals Officer shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of the Internal Revenue.

“(2) FUNCTIONS OF OFFICE.—

“(A) IN GENERAL.—It shall be the function of the Office of Appeals to resolve tax controversies, without litigation, on a basis that is fair and impartial to both the Government and the taxpayer and in a manner that encourages voluntary compliance and public confidence in the integrity and efficiency of the Internal Revenue Service.

“(B) RESTRICTIONS.—In carrying out its functions, the Office of Appeals—

“(i) shall consider only those issues concerning the taxpayer’s return raised by the division established under subsection (a) prior to its referral to the Office, and

“(ii) shall not have any communications with any officer or employee of the division with respect to such issues unless the taxpayer, or the taxpayer’s representative, has the opportunity to be present for such communications.”

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

4 **SEC. 305. IMPROVED IRS WRITTEN COMMUNICATIONS TO**
 5 **TAXPAYERS AND TAX FORMS.**

6 (a) TAXPAYER-COMMUNICATIONS ADVISORY
 7 GROUP.—

8 (1) IN GENERAL.—In order to ensure that the
 9 Internal Revenue Service Board of Governors re-
 10 ceives input from the taxpayers who must comply
 11 with written communications from the Internal Rev-
 12 enue Service, the Board shall, not later than 180
 13 days after the date of the enactment of this Act,
 14 convene a taxpayer-communications advisory group
 15 to review all—

16 (A) standardized letters, notices, bills, and
 17 other written communications sent to taxpayers
 18 by the Internal Revenue Service, and

19 (B) tax forms and instructions.

20 The advisory group shall recommend to the Board
 21 the rewriting of any standardized written document,
 22 form, or instruction which it finds is not clear to, or
 23 easily understood by, the taxpayers to whom it is di-
 24 rected.

25 (2) MEMBERSHIP.—

1 (A) IN GENERAL.—Members of the tax-
2 payer-communications advisory group shall be
3 appointed by the Board and shall include at
4 least one representative of the following: indi-
5 vidual taxpayers subject to withholding; small
6 businesses and the self-employed; large busi-
7 nesses; trusts and estates; tax-exempt organiza-
8 tions; tax practitioners, preparers, and other
9 tax professionals; and such other types of tax-
10 payers that the Board deems appropriate.

11 (B) TERM.—A member of the advisory
12 group shall be appointed for a term of one year
13 and may be reappointed for one additional
14 term.

15 (b) PERSONNEL AND OTHER MATTERS.—

16 (1) MEMBERS' COMPENSATION.—Each member
17 of the advisory group shall serve without compensa-
18 tion, but shall be allowed travel expenses, including
19 per diem in lieu of subsistence, at rates authorized
20 for employees of agencies under subchapter I of
21 chapter 57 of title 5, United States Code, while
22 away from their homes or regular places of business
23 in performance of services for the advisory group.

24 (2) DETAILS.—Any Federal Government em-
25 ployee may be detailed to the advisory group without

1 reimbursement, and such detail shall be without
 2 interruption or loss of civil service status or privi-
 3 lege.

4 **TITLE IV—ELECTRONIC FILING**

5 **SEC. 401. GOALS FOR ELECTRONIC FILING; ELECTRONIC-** 6 **FILING ADVISORY GROUP.**

7 (a) IN GENERAL.—It is the policy of Congress that—

8 (1) paperless filing should be the preferred and
 9 most convenient means of filing Federal tax and in-
 10 formation returns,

11 (2) electronic filing should be a voluntary op-
 12 tion for taxpayers, and

13 (3) there be a goal that no more than 20 per-
 14 cent of all such returns should be filed on paper by
 15 the year 2007.

16 (b) STRATEGIC PLAN.—

17 (1) IN GENERAL.—Not later than 180 days
 18 after the date of the enactment of this Act, the Sec-
 19 retary of the Treasury or the Secretary’s delegate
 20 (hereafter in this section referred to as the “Sec-
 21 retary”), in consultation with the Board of Gov-
 22 ernors of the Internal Revenue Service and the elec-
 23 tronic-filing advisory group described in paragraph
 24 (4), shall establish a plan to eliminate barriers, pro-
 25 vide incentives, and use competitive market forces to

1 increase electronic filing gradually over the next 10
2 years while maintaining processing times for paper
3 returns at 40 days.

4 (2) PUBLICATION OF PLAN.—The plan de-
5 scribed in paragraph (1) shall be published in the
6 Federal Register and shall be subject to public com-
7 ment for 60 days from the date of publication. Not
8 later than 180 days after publication of such plan,
9 the Secretary shall publish a final plan in the Fed-
10 eral Register.

11 (3) IMPLEMENTATION OF PLAN.—The Sec-
12 retary shall prescribe rules and regulations to imple-
13 ment the plan developed under paragraph (1). Not-
14 withstanding any other provision of law, the Sec-
15 retary shall—

16 (A) prescribe such rules and regulations in
17 accordance with section 553 (b), (c), (d), and
18 (e) of title 5, United States Code, and

19 (B) in connection with such rules and reg-
20 ulations, perform an initial and final regulatory
21 flexibility analysis pursuant to sections 603 and
22 604 of title 5, United States Code, and out-
23 reach pursuant to section 609 of title 5, United
24 States Code.

25 (4) ELECTRONIC-FILING ADVISORY GROUP.—

1 (A) IN GENERAL.—To ensure that the Sec-
 2 retary receives input from the private sector in
 3 the development and implementation of the plan
 4 required by paragraph (1), not later than 60
 5 days after the date of enactment of this Act,
 6 the Secretary shall convene an electronic-filing
 7 advisory group to include at least one rep-
 8 resentative of individual taxpayers subject to
 9 withholding, small businesses and the self-em-
 10 ployed, large businesses, trusts and estates, tax-
 11 exempt organizations, tax practitioners, prepar-
 12 ers, and other tax professionals, computerized
 13 tax processors, and the electronic-filing indus-
 14 try.

15 (B) PERSONNEL AND OTHER MATTERS.—
 16 The provisions of section 305(b) of this Act
 17 shall apply to the advisory group.

18 (5) TERMINATION.—The advisory group shall
 19 terminate on December 31, 2008.

20 (c) PROMOTION OF ELECTRONIC FILING AND INCEN-
 21 TIVES.—Section 6011 is amended by redesignating sub-
 22 section (f) as subsection (g) and by inserting after sub-
 23 section (e) the following new subsection:

24 “(f) PROMOTION OF ELECTRONIC FILING.—

1 “(1) IN GENERAL.—The Secretary is author-
 2 ized to promote the benefits of and encourage the
 3 use of electronic tax administration programs, as
 4 they become available, through the use of mass com-
 5 munications and other means.

6 “(2) INCENTIVES.—The Secretary may imple-
 7 ment procedures to provide for the payment of ap-
 8 propriate incentives for electronically filed returns.”

9 **SEC. 402. REPORT ON ELECTRONIC FILING AND ITS EF-**
 10 **TECT ON SMALL BUSINESSES.**

11 Not later than June 30 of each calendar year after
 12 1997 and before 2009, the Chairperson of the Internal
 13 Revenue Service Board of Governors, the Secretary of the
 14 Treasury, and the Chairperson of the electronic-filing ad-
 15 visory group established under section 401(b)(4) of this
 16 Act shall report to the Committees on Finance, Appropria-
 17 tions, Governmental Affairs, and Small Business of the
 18 Senate, the Committees on Ways and Means, Appropria-
 19 tions, Government Reform and Oversight, and Small Busi-
 20 ness of the House of Representatives, and the Joint Com-
 21 mittee on Taxation, on—

22 (1) the progress of the Internal Revenue Serv-
 23 ice in meeting the goal of receiving 80 percent of tax
 24 and information returns electronically by 2007,

1 (2) the status of the plan required by section
2 401(b) of this Act,

3 (3) the legislative changes necessary to assist
4 the Internal Revenue Service in meeting such goal,
5 and

6 (4) the effects on small businesses and the self-
7 employed of electronically filing tax and information
8 returns, including a detailed description of the forms
9 to be filed electronically, the equipment and tech-
10 nology required for compliance, the cost to a small
11 business and self-employed individual of filing elec-
12 tronically, implementation plans, and action to co-
13 ordinate Federal, State, and local electronic filing
14 requirements.

15 **TITLE V—REGULATORY REFORM**

16 **SEC. 501. CONGRESSIONAL REVIEW OF INTERNAL REVE-** 17 **NUE SERVICE RULES THAT INCREASE REVE-** 18 **NUE.**

19 (a) IN GENERAL.—Section 804(2) of title 5, United
20 States Code, is amended to read as follows:

21 “(2) The term ‘major rule’—

22 “(A) means any rule that—

23 “(i) the Administrator of the Office of
24 Information and Regulatory Affairs of the

Office of Management and Budget finds
has resulted in or is likely to result in—

“(I) an annual effect on the
economy of \$100,000,000 or more;

“(II) a major increase in costs or
prices for consumers, individual indus-
tries, Federal, State, or local govern-
ment agencies, or geographic regions;
or

“(III) significant adverse effects
on competition, employment, invest-
ment, productivity, innovation, or on
the ability of United States-based en-
terprises to compete with foreign-
based enterprises in domestic and ex-
port markets; or

“(ii)(I) is promulgated by the Internal
Revenue Service; and

“(II) the Administrator of the Office
of Information and Regulatory Affairs of
the Office of Management and Budget
finds that the implementation and enforce-
ment of the rule has resulted in or is likely
to result in any net increase in Federal
revenues over current practices in tax col-

1 lection or revenues anticipated from the
 2 rule on the date of the enactment of the
 3 statute under which the rule is promul-
 4 gated; and

5 “(B) does not include any rule promul-
 6 gated under the Telecommunications Act of
 7 1996 and the amendments made by that Act.”

8 (b) EFFECTIVE DATE.—The amendments made by
 9 this section shall be effective 90 days after the date of
 10 the enactment of this Act.

11 **SEC. 502. SMALL BUSINESS ADVOCACY PANELS FOR THE**
 12 **IRS.**

13 (a) IN GENERAL.—Section 609(d) of title 5, United
 14 States Code, is amended to read as follows:

15 “(d) For purposes of this section, the term ‘covered
 16 agency’ means the Internal Revenue Service, the Environ-
 17 mental Protection Agency, and the Occupational Safety
 18 and Health Administration of the Department of Labor.”

19 (b) EFFECTIVE DATE.—The amendments made by
 20 this section shall be effective 90 days after the date of
 21 the enactment of this Act.

22 **SEC. 503. TAXPAYER’S ELECTION WITH RESPECT TO RE-**
 23 **COVERY OF COSTS AND CERTAIN FEES.**

24 (a) IN GENERAL.—

1 (1) Section 504(f) of title 5, United States
2 Code, is amended to read as follows:

3 “(f) A party may elect to recover costs, fees, or other
4 expenses under this section or under section 7430 of the
5 Internal Revenue Code of 1986.”

6 (2) Section 2412(e) of title 28, United States
7 Code, is amended to read as follows:

8 “(e) A party may elect to recover costs, fees, or other
9 expenses under this section or under section 7430 of the
10 Internal Revenue Code of 1986.”

11 (b) COORDINATION.—Section 7430 (relating to
12 awarding of costs and certain fees) is amended by adding
13 at the end the following new subsection:

14 “(g) COORDINATION WITH EQUAL ACCESS TO JUSTICE ACT.—This section shall not apply to any administrative or judicial proceeding with respect to which a taxpayer elects to recover costs, fees, or other expenses under
15 section 504 of title 5, United States Code, or section 2412
16 of title 28, United States Code.”

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall be effective for proceedings initiated
19 after the date of the enactment of this Act.

○