

106TH CONGRESS  
1ST SESSION

# H. R. 2378

To amend the Internal Revenue Code of 1986 to clarify that advance pricing agreements between taxpayers and the Internal Revenue Service are confidential return information.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1999

Mr. HOUGHTON (for himself, Mr. SAM JOHNSON of Texas, Mr. LEVIN, and Ms. DUNN) 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 clarify that advance pricing agreements between taxpayers and the Internal Revenue Service are confidential return information.

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. ADVANCE PRICING AGREEMENTS ARE CON-**  
4 **FIDENTIAL RETURN INFORMATION.**

5 (a) TREATMENT AS RETURN INFORMATION.—Para-  
6 graph (2) of section 6103(b) of the Internal Revenue Code  
7 of 1986 (defining return information) is amended by strik-  
8 ing “and” at the end of subparagraph (A), by adding

1 “and” at the end of subparagraph (B), and”, and by in-  
 2 serting after subparagraph (B) the following new subpara-  
 3 graph:

4 “(C) any advance pricing agreement en-  
 5 tered into by a taxpayer and the Secretary and  
 6 any background information related to such  
 7 agreements,”.

8 (b) EXCEPTION FROM PUBLIC INSPECTION AS WRIT-  
 9 TEN DETERMINATIONS.—Paragraph (1) of section  
 10 6110(b) of such Code (defining written determination) is  
 11 amended by adding at the end the following new sentence:  
 12 “Such term shall not include any advance pricing agree-  
 13 ment entered into by a taxpayer and the Secretary and  
 14 any background information related to such agreements.”.

15 (c) EFFECTIVE DATE.—The amendments made by  
 16 this section shall take effect on January 1, 1991.

17 **SEC. 2. REPORT ON ADVANCE PRICING AGREEMENTS AND**  
 18 **METHODOLOGIES.**

19 (a) IN GENERAL.—The Secretary of the Treasury  
 20 shall prepare and publish a report for each calendar year  
 21 which sets forth the following:

22 (1) The number of advance pricing agreement  
 23 applications filed during such calendar year.

24 (2) With respect to advance pricing agreements  
 25 which are entered into during such calendar year—

1 (A) the number of such agreements,

2 (B) the number of such agreements that  
3 were bilateral or multilateral,

4 (C) the industries to which such agree-  
5 ments applied,

6 (D) the time required to complete each  
7 such agreement,

8 (E) the period for which each such agree-  
9 ment is effective, including any retroactive pe-  
10 riod, and

11 (F) the summary of the methodology used  
12 in each such agreement and a hypothetical illus-  
13 tration of the methodology's operation.

14 (3) With respect to advance pricing agreements  
15 renewed during such calendar year, the information  
16 specified in subparagraphs (A) through (E) of para-  
17 graph (2).

18 (b) PROTECTION OF CONFIDENTIALITY.—In pre-  
19 paring reports under this section, the Secretary's primary  
20 concern shall be to protect the identity of the taxpayer  
21 and the confidentiality of the taxpayer's return informa-  
22 tion, trade secrets, and any other information which could  
23 be used to identify the taxpayer.

24 (c) ADVANCE PRICING AGREEMENT CONTINGENT ON  
25 AGREEMENT ON SUMMARY OF METHODOLOGY.—An ad-

1 vance pricing agreement may be entered into only if all  
2 parties to such agreement agree on the summary and illus-  
3 tration referred to in subsection (a)(2)(F) with respect to  
4 such agreement.

5 (d) MULTIPLE AGREEMENTS USING SAME OR SIMI-  
6 LAR METHODOLOGY.—If 2 or more advance pricing agree-  
7 ments use the same or a similar methodology, the require-  
8 ment of subsection (a)(2)(F) shall be met if—

9 (1) the Secretary includes in the report one  
10 summary of such methodology and one hypothetical  
11 illustration of such methodology's operation, and

12 (2) the Secretary specifies in the report the  
13 number of agreements entered into during the cal-  
14 endar year that use such methodology.

15 (e) DUE DATE.—The report under this section for  
16 any calendar year shall be published in the Federal Reg-  
17 ister (and otherwise be made available to the public) not  
18 later than July 1 of the following calendar year.

19 (f) APPLICATION OF SECTION.—This section shall  
20 apply to calendar years beginning after the date of the  
21 enactment of this Act.

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