

107TH CONGRESS
2D SESSION

H. R. 5549

To amend the Internal Revenue Code of 1986 to provide for improved administrative efficiency and confidentiality under the internal revenue laws.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2002

Mr. HOUGHTON 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 provide for improved administrative efficiency and confidentiality under the internal revenue laws.

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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Administration Efficiency and Confidentiality Act of
6 2002”.

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; etc.

TITLE I—EFFICIENCY OF TAX ADMINISTRATION

Sec. 101. Revisions relating to termination of employment of Internal Revenue
 Service employees for misconduct.

Sec. 102. Confirmation of authority of Tax Court to apply doctrine of equitable
 recoupment.

Sec. 103. Jurisdiction of Tax Court over collection due process cases.

Sec. 104. Office of Chief Counsel review of offers in compromise.

Sec. 105. 15-day delay in due date for electronically filed individual income tax
 returns.

TITLE II—CONFIDENTIALITY AND DISCLOSURE

Sec. 201. Collection activities with respect to joint return disclosable to either
 spouse based on oral request.

Sec. 202. Taxpayer representatives not subject to examination on sole basis of
 representation of taxpayers.

Sec. 203. Compliance by contractors with confidentiality safeguards.

Sec. 204. Higher standards for requests for and consents to disclosure.

Sec. 205. Notice to taxpayer concerning administrative determination of brows-
 ing; annual report.

Sec. 206. Expanded disclosure in emergency circumstances.

TITLE III—OTHER PROVISIONS

Sec. 301. Better means of communicating with taxpayers.

Sec. 302. Enrolled agents.

Sec. 303. Financial management service fees.

Sec. 304. Amendment to Treasury auction reforms.

4 **TITLE I—EFFICIENCY OF TAX**
 5 **ADMINISTRATION**

6 **SEC. 101. REVISIONS RELATING TO TERMINATION OF EM-**
 7 **PLOYMENT OF INTERNAL REVENUE SERVICE**
 8 **EMPLOYEES FOR MISCONDUCT.**

9 (a) IN GENERAL.—Subchapter A of chapter 80 (re-
 10 lating to application of internal revenue laws) is amended
 11 by inserting after section 7804 the following new section:

1 **“SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.**

2 “(a) DISCIPLINARY ACTIONS.—

3 “(1) IN GENERAL.—Subject to subsection (c),
4 the Commissioner shall take an action in accordance
5 with the guidelines established under paragraph (2)
6 against any employee of the Internal Revenue Service
7 if there is a final administrative or judicial determination
8 that such employee committed any act or
9 omission described under subsection (b) in the performance
10 of the employee’s official duties or where
11 a nexus to the employee’s position exists.

12 “(2) GUIDELINES.—The Commissioner shall
13 issue guidelines for determining the appropriate level
14 of discipline, up to and including termination of employment,
15 for committing any act or omission described under subsection (b).

17 “(b) ACTS OR OMISSIONS.—The acts or omissions described
18 under this subsection are—

19 “(1) willful failure to obtain the required approval
20 signatures on documents authorizing the seizure of a taxpayer’s
21 home, personal belongings, or business assets;

23 “(2) willfully providing a false statement under
24 oath with respect to a material matter involving a
25 taxpayer or taxpayer representative;

1 “(3) with respect to a taxpayer or taxpayer rep-
2 resentative, the willful violation of—

3 “(A) any right under the Constitution of
4 the United States;

5 “(B) any civil right established under—

6 “(i) title VI or VII of the Civil Rights
7 Act of 1964;

8 “(ii) title IX of the Education Amend-
9 ments of 1972;

10 “(iii) the Age Discrimination in Em-
11 ployment Act of 1967;

12 “(iv) the Age Discrimination Act of
13 1975;

14 “(v) section 501 or 504 of the Reha-
15 bilitation Act of 1973; or

16 “(vi) title I of the Americans with
17 Disabilities Act of 1990; or

18 “(C) the Internal Revenue Service policy
19 on unauthorized inspection of returns or return
20 information;

21 “(4) willfully falsifying or destroying documents
22 to conceal mistakes made by any employee with re-
23 spect to a matter involving a taxpayer or taxpayer
24 representative;

1 “(5) assault or battery on a taxpayer or tax-
2 payer representative, but only if there is a criminal
3 conviction, or a final adverse judgment by a court in
4 a civil case, with respect to the assault or battery;

5 “(6) willful violations of this title, Department
6 of the Treasury regulations, or policies of the Inter-
7 nal Revenue Service (including the Internal Revenue
8 Manual) for the purpose of retaliating against, or
9 harassing, a taxpayer or taxpayer representative;

10 “(7) willful misuse of the provisions of section
11 6103 for the purpose of concealing information from
12 a congressional inquiry;

13 “(8) willful failure to file any return of tax re-
14 quired under this title on or before the date pre-
15 scribed therefor (including any extensions) when a
16 tax is due and owing, unless such failure is due to
17 reasonable cause and not due to willful neglect;

18 “(9) willful understatement of Federal tax li-
19 ability, unless such understatement is due to reason-
20 able cause and not due to willful neglect; and

21 “(10) threatening to audit a taxpayer, or to
22 take other action under this title, for the purpose of
23 extracting personal gain or benefit.

24 “(c) DETERMINATIONS OF COMMISSIONER.—

1 “(1) IN GENERAL.—The Commissioner may
2 take a personnel action other than a disciplinary ac-
3 tion provided for in the guidelines under subsection
4 (a)(2) for an act or omission described under sub-
5 section (b).

6 “(2) DISCRETION.—The exercise of authority
7 under paragraph (1) shall be at the sole discretion
8 of the Commissioner and may not be delegated to
9 any other officer. The Commissioner, in his sole dis-
10 cretion, may establish a procedure to determine if an
11 individual should be referred to the Commissioner
12 for a determination by the Commissioner under
13 paragraph (1).

14 “(3) NO APPEAL.—Notwithstanding any other
15 provision of law, any determination of the Commis-
16 sioner under this subsection may not be reviewed in
17 any administrative or judicial proceeding. A finding
18 that an act or omission described under subsection
19 (b) occurred may be reviewed.

20 “(d) DEFINITION.—For the purposes of the provi-
21 sions described in clauses (i), (ii), and (iv) of subsection
22 (b)(3)(B), references to a program or activity regarding
23 Federal financial assistance or an education program or
24 activity receiving Federal financial assistance shall include

1 any program or activity conducted by the Internal Rev-
 2 enue Service for a taxpayer.

3 “(e) ANNUAL REPORT.—The Commissioner shall
 4 submit to Congress annually a report on disciplinary ac-
 5 tions under this section.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
 7 for chapter 80 is amended by inserting after the item re-
 8 lating to section 7804 the following new item:

“Sec. 7804A. Disciplinary actions for misconduct.”.

9 (c) REPEAL OF SUPERSEDED SECTION.—Section
 10 1203 of the Internal Revenue Service Restructuring and
 11 Reform Act of 1998 (Public Law 105–206; 112 Stat. 720)
 12 is repealed.

13 (d) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect on the date of the enactment
 15 of this Act.

16 **SEC. 102. CONFIRMATION OF AUTHORITY OF TAX COURT**
 17 **TO APPLY DOCTRINE OF EQUITABLE**
 18 **RECOUPMENT.**

19 (a) CONFIRMATION OF AUTHORITY OF TAX COURT
 20 TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—
 21 Subsection (b) of section 6214 (relating to jurisdiction
 22 over other years and quarters) is amended by adding at
 23 the end the following new sentence: “Notwithstanding the
 24 preceding sentence, the Tax Court may apply the doctrine
 25 of equitable recoupment to the same extent that it is avail-

1 able in civil tax cases before the district courts of the
2 United States and the United States Court of Federal
3 Claims.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to any action or proceeding in the
6 Tax Court with respect to which a decision has not become
7 final (as determined under section 7481 of the Internal
8 Revenue Code of 1986) as of the date of the enactment
9 of this Act.

10 **SEC. 103. JURISDICTION OF TAX COURT OVER COLLECTION**
11 **DUE PROCESS CASES.**

12 (a) IN GENERAL.—Section 6330(d)(1) (relating to
13 judicial review of determination) is amended to read as
14 follows:

15 “(1) JUDICIAL REVIEW OF DETERMINATION.—
16 The person may, within 30 days of a determination
17 under this section, appeal such determination to the
18 Tax Court (and the Tax Court shall have jurisdic-
19 tion with respect to such matter).”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to judicial appeals filed after
22 the date of the enactment of this Act.

1 **SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS**
2 **IN COMPROMISE.**

3 (a) IN GENERAL.—Section 7122(b) (relating to
4 record) is amended by striking “Whenever a compromise”
5 and all that follows through “his delegate” and inserting
6 “If the Secretary determines that an opinion of the Gen-
7 eral Counsel for the Department of the Treasury, or the
8 Counsel’s delegate, is required with respect to a com-
9 promise, there shall be placed on file in the office of the
10 Secretary such opinion”.

11 (b) CONFORMING AMENDMENTS.—Section 7122(b) is
12 amended by striking the second and third sentences.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to offers-in-compromise submitted
15 or pending on or after the date of the enactment of this
16 Act.

17 **SEC. 105. 15-DAY DELAY IN DUE DATE FOR ELECTRONI-**
18 **CALLY FILED INDIVIDUAL INCOME TAX RE-**
19 **TURNS.**

20 (a) IN GENERAL.—Section 6072 (relating to time for
21 filing income tax returns) is amended by adding at the
22 end the following new subsection:

23 “(f) ELECTRONICALLY FILED RETURNS OF INDIVID-
24 UALS.—

25 “(1) IN GENERAL.—Returns of an individual
26 under section 6012 or 6013 (other than an indi-

1 vidual to whom subsection (c) applies) which are
2 filed electronically—

3 “(A) in the case of returns filed on the
4 basis of a calendar year, shall be filed on or be-
5 fore the 30th day of April following the close of
6 the calendar year, and

7 “(B) in the case of returns filed on the
8 basis of a fiscal year, shall be filed on or before
9 the last day of the 4th month following the
10 close of the fiscal year.

11 “(2) ELECTRONIC FILING.—Paragraph (1)
12 shall not apply to any return unless—

13 “(A) such return is accepted by the Sec-
14 retary, and

15 “(B) the balance due (if any) shown on
16 such return is paid electronically in a manner
17 prescribed by the Secretary.

18 “(3) SPECIAL RULES.—

19 “(A) ESTIMATED TAX.—If—

20 “(i) paragraph (1) applies to an indi-
21 vidual for any taxable year, and

22 “(ii) there is an overpayment of tax
23 shown on the return for such year which
24 the individual allows against the individ-
25 ual’s obligation under section 6641,

1 then, with respect to the amount so allowed,
2 any reference in section 6641 to the April 15
3 following such taxable year shall be treated as
4 a reference to April 30.

5 “(B) REFERENCES TO DUE DATE.—Para-
6 graph (1) shall apply solely for purposes of de-
7 termining the due date for the individual’s obli-
8 gation to file and pay tax and, except as other-
9 wise provided by the Secretary, shall be treated
10 as an extension of the due date for any other
11 purpose under this title.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to taxable years beginning after
14 December 31, 2001.

15 **TITLE II—CONFIDENTIALITY** 16 **AND DISCLOSURE**

17 **SEC. 201. COLLECTION ACTIVITIES WITH RESPECT TO** 18 **JOINT RETURN DISCLOSABLE TO EITHER** 19 **SPOUSE BASED ON ORAL REQUEST.**

20 (a) IN GENERAL.—Paragraph (8) of section 6103(e)
21 (relating to disclosure of collection activities with respect
22 to joint return) is amended by striking “in writing” the
23 first place it appears.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to requests made after the date
3 of the enactment of this Act.

4 **SEC. 202. TAXPAYER REPRESENTATIVES NOT SUBJECT TO**
5 **EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.**
6

7 (a) IN GENERAL.—Subsection (h) of section 6103
8 (relating to disclosure to certain Federal officers and em-
9 ployees for purposes of tax administration, etc.) is amend-
10 ed by adding at the end the following new paragraph:

11 “(7) TAXPAYER REPRESENTATIVES.—Notwith-
12 standing paragraph (1), the return of the represent-
13 ative of a taxpayer whose return is being examined
14 by an officer or employee of the Department of the
15 Treasury shall not be open to inspection by such of-
16 ficer or employee on the sole basis of the representa-
17 tive’s relationship to the taxpayer unless a super-
18 visor of such officer or employee has approved the
19 inspection of the return of such representative on a
20 basis other than by reason of such relationship.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall take effect on the date of the enactment
23 of this Act.

1 **SEC. 203. COMPLIANCE BY CONTRACTORS WITH CONFIDEN-**
2 **TIALITY SAFEGUARDS.**

3 (a) IN GENERAL.—Section 6103(p) (relating to State
4 law requirements) is amended by adding at the end the
5 following new paragraph:

6 “(9) DISCLOSURE TO CONTRACTORS.—Notwith-
7 standing any other provision of this section, no re-
8 turn or return information shall be disclosed by any
9 officer or employee of any Federal agency or State
10 to any contractor of such agency or State unless
11 such agency or State—

12 “(A) has requirements in effect which re-
13 quire each contractor of such agency or State
14 which would have access to returns or return
15 information to provide safeguards (within the
16 meaning of paragraph (4)) to protect the con-
17 fidentiality of such returns or return informa-
18 tion,

19 “(B) agrees to conduct an annual, on-site
20 review (mid-point review in the case of con-
21 tracts of less than 1 year in duration) of each
22 contractor to determine compliance with such
23 requirements,

24 “(C) submits the findings of the most re-
25 cent review conducted under subparagraph (B)

1 to the Secretary as part of the report required
2 by paragraph (4)(E), and

3 “(D) certifies to the Secretary for the most
4 recent annual period that all contractors are in
5 compliance with all such requirements.

6 The certification required by subparagraph (D) shall
7 include the name and address of each contractor, a
8 description of the contract of the contractor with the
9 Federal agency or State, and the duration of such
10 contract.”.

11 (b) CONFORMING AMENDMENT.—Subparagraph (B)
12 of section 6103(p)(8) is amended by inserting “or para-
13 graph (9)” after “subparagraph (A)”.

14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall apply to disclosures made after De-
17 cember 31, 2002.

18 (2) CERTIFICATIONS.—The first certification
19 under section 6103(p)(9)(D) of the Internal Revenue
20 Code of 1986, as added by subsection (a), shall be
21 made with respect to calendar year 2003.

22 **SEC. 204. HIGHER STANDARDS FOR REQUESTS FOR AND**
23 **CONSENTS TO DISCLOSURE.**

24 (a) IN GENERAL.—Subsection (c) of section 6103
25 (relating to disclosure of returns and return information

1 to designee of taxpayer) is amended by adding at the end
2 the following new paragraphs:

3 “(2) REQUIREMENTS FOR VALID REQUESTS
4 AND CONSENTS.—A request for or consent to disclo-
5 sure under paragraph (1) shall only be valid for pur-
6 poses of this section or sections 7213, 7213A, or
7 7431 if—

8 “(A) at the time of execution, such request
9 or consent designates a recipient of such disclo-
10 sure and is dated, and

11 “(B) at the time such request or consent
12 is submitted to the Secretary, the submitter of
13 such request or consent certifies, under penalty
14 of perjury, that such request or consent com-
15 plied with subparagraph (A).

16 “(3) RESTRICTIONS ON PERSONS OBTAINING
17 INFORMATION.—Any person shall, as a condition for
18 receiving return or return information under para-
19 graph (1)—

20 “(A) ensure that such return and return
21 information is kept confidential,

22 “(B) use such return and return informa-
23 tion only for the purpose for which it was re-
24 quested, and

1 “(C) not disclose such return and return
2 information except to accomplish the purpose
3 for which it was requested, unless a separate
4 consent from the taxpayer is obtained.

5 “(4) REQUIREMENTS FOR FORM PRESCRIBED
6 BY SECRETARY.—For purposes of this subsection,
7 the Secretary shall prescribe a form for requests and
8 consents which shall—

9 “(A) contain a warning, prominently displayed,
10 informing the taxpayer that the form
11 should not be signed unless it is completed,

12 “(B) state that if the taxpayer believes
13 there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

14 “(C) contain the address and telephone
15 number of the Treasury Inspector General for
16 Tax Administration.”.

17 (b) REPORT.—Not later than 18 months after the
18 date of the enactment of this Act, the Treasury Inspector
19 General for Tax Administration shall submit a report to
20 the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under

1 section 6103(c) of the Internal Revenue Code of 1986, as
2 amended by subsection (a). Such report shall—

3 (1) evaluate (on the basis of random sampling)
4 whether—

5 (A) the amendment made by subsection (a)
6 is achieving the purposes of this section;

7 (B) requesters and submitters for such dis-
8 closure are continuing to evade the purposes of
9 this section and, if so, how; and

10 (C) the sanctions for violations of such re-
11 quirements are adequate; and

12 (2) include such recommendations that the
13 Treasury Inspector General for Tax Administration
14 considers necessary or appropriate to better achieve
15 the purposes of this section.

16 (c) CONFORMING AMENDMENT.—Section 6103(c) is
17 amended by striking “TAXPAYER.—The Secretary” and
18 inserting “TAXPAYER.—

19 “(1) IN GENERAL.—The Secretary”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to requests and consents made
22 after 3 months after the date of the enactment of this
23 Act.

1 **SEC. 205. NOTICE TO TAXPAYER CONCERNING ADMINIS-**
2 **TRATIVE DETERMINATION OF BROWSING; AN-**
3 **NUAL REPORT.**

4 (a) NOTICE TO TAXPAYER.—Subsection (e) of section
5 7431 (relating to notification of unlawful inspection and
6 disclosure) is amended by adding at the end the following:
7 “The Secretary shall also notify such taxpayer if the
8 Treasury Inspector General for Tax Administration deter-
9 mines that such taxpayer’s return or return information
10 was inspected or disclosed in violation of any of the provi-
11 sions specified in paragraph (1), (2), or (3).”.

12 (b) REPORTS.—Subsection (p) of section 6103 (relat-
13 ing to procedure and recordkeeping), as amended by sec-
14 tion 245, is further amended by adding at the end the
15 following new paragraph:

16 “(10) REPORT ON UNAUTHORIZED DISCLOSURE
17 AND INSPECTION.—As part of the report required by
18 paragraph (3)(C) for each calendar year, the Sec-
19 retary shall furnish information regarding the unau-
20 thorized disclosure and inspection of returns and re-
21 turn information, including the number, status, and
22 results of—

23 “(A) administrative investigations,

24 “(B) civil lawsuits brought under section
25 7431 (including the amounts for which such

1 lawsuits were settled and the amounts of dam-
2 ages awarded), and

3 “(C) criminal prosecutions.”.

4 (c) EFFECTIVE DATE.—

5 (1) NOTICE.—The amendment made by sub-
6 section (a) shall apply to determinations made after
7 the date of the enactment of this Act.

8 (2) REPORTS.—The amendment made by sub-
9 section (b) shall apply to calendar years ending after
10 the date of the enactment of this Act.

11 **SEC. 206. EXPANDED DISCLOSURE IN EMERGENCY CIR-**
12 **CUMSTANCES.**

13 (a) IN GENERAL.—Section 6103(i)(3)(B) (relating to
14 danger of death or physical injury) is amended by striking
15 “or State” and inserting “, State, or local”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall take effect on the date of the enactment
18 of this Act.

19 **TITLE III—OTHER PROVISIONS.**

20 **SEC. 301. BETTER MEANS OF COMMUNICATING WITH TAX-**
21 **PAYERS.**

22 Not later than 18 months after the date of the enact-
23 ment of this Act, the Treasury Inspector General for Tax
24 Administration shall submit a report to Congress evalu-
25 ating whether technological advances, such as e-mail and

1 facsimile transmission, permit the use of alternative
 2 means for the Internal Revenue Service to communicate
 3 with taxpayers.

4 **SEC. 302. ENROLLED AGENTS.**

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

8 **“SEC. 7527. ENROLLED AGENTS.**

9 “(a) IN GENERAL.—The Secretary may prescribe
 10 such regulations as may be necessary to regulate the con-
 11 duct of enrolled agents in regards to their practice before
 12 the Internal Revenue Service.

13 “(b) USE OF CREDENTIALS.—Any enrolled agents
 14 properly licensed to practice as required under rules pro-
 15 mulgated under section (a) herein shall be allowed to use
 16 the credentials or designation as ‘enrolled agent’, ‘EA’, or
 17 ‘E.A.’.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
 19 for chapter 77 is amended by adding at the end the fol-
 20 lowing new item:

“Sec. 7525. Enrolled agents.”.

21 (c) PRIOR REGULATIONS.—Nothing in the amend-
 22 ments made by this section shall be construed to have any
 23 effect on part 10 of title 31, Code of Federal Regulations,
 24 or any other Federal rule or regulation issued before the
 25 date of the enactment of this Act.

1 **SEC. 303. FINANCIAL MANAGEMENT SERVICE FEES.**

2 Notwithstanding any other provision of law, the Fi-
3 nancial Management Service may charge the Internal Rev-
4 enue Service, and the Internal Revenue Service may pay
5 the Financial Management Service, a fee sufficient to
6 cover the full cost of implementing a continuous levy pro-
7 gram under subsection (h) of section 6331 of the Internal
8 Revenue Code of 1986. Any such fee shall be based on
9 actual levies made and shall be collected by the Financial
10 Management Service by the retention of a portion of
11 amounts collected by levy pursuant to that subsection.
12 Amounts received by the Financial Management Service
13 as fees under that subsection shall be deposited into the
14 account of the Department of the Treasury under section
15 3711(g)(7) of title 31, United States Code, and shall be
16 collected and accounted for in accordance with the provi-
17 sions of that section. The amount credited against the tax-
18 payer's liability on account of the continuous levy shall
19 be the amount levied, without reduction for the amount
20 paid to the Financial Management Service as a fee.

21 **SEC. 304. AMENDMENT TO TREASURY AUCTION REFORMS.**

22 (a) IN GENERAL.—Clause (i) of section 202(c)(4)(B)
23 of the Government Securities Act Amendments of 1993
24 (31 U.S.C. 3121 note) is amended by inserting before the
25 semicolon “(or, if earlier, at the time the Secretary re-

1 leases the minutes of the meeting in accordance with para-
2 graph (2))”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to meetings held after the date
5 of the enactment of this Act.

○