

108TH CONGRESS
1ST SESSION

H. R. 3625

To amend the Internal Revenue Code of 1986 to consolidate the Inspectors General relating to the Department of the Treasury, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2003

Mr. PORTMAN (for himself, Mr. HOUGHTON, and Mr. POMEROY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to consolidate the Inspectors General relating to the Department of the Treasury, 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.**

4 This Act may be cited as the “Department of the
5 Treasury Inspector General Consolidation Act of 2003”.

1 **SEC. 2. OFFICE OF THE TREASURY INSPECTOR GENERAL.**

2 (a) IN GENERAL.—Subchapter A of chapter 80 of the
3 Internal Revenue Code of 1986 is amended by inserting
4 after section 7804 the following new section:

5 **“SEC. 7804A. OFFICE OF THE TREASURY INSPECTOR GEN-**
6 **ERAL.**

7 “(a) IN GENERAL.—There shall be in the Depart-
8 ment of the Treasury the Office of the Treasury Inspector
9 General.

10 “(b) TREASURY INSPECTOR GENERAL.—

11 “(1) IN GENERAL.—There shall be at the head
12 of such Office the Treasury Inspector General. The
13 Treasury Inspector General shall be under the au-
14 thority, direction, and control of the Secretary of the
15 Treasury with respect to audits or investigations, or
16 the issuance of subpoenas, which require access to
17 sensitive information concerning—

18 “(A) ongoing criminal investigations or
19 proceedings;

20 “(B) undercover operations;

21 “(C) the identity of confidential sources,
22 including protected witnesses;

23 “(D) deliberations and decisions on policy
24 matters, including documented information
25 used as a basis for making policy decisions, the
26 disclosure of which could reasonably be ex-

pected to have a significant influence on the economy or market behavior;

“(E) intelligence or counterintelligence matters; or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) SPECIAL RULE RELATING TO NATIONAL INTERESTS OF THE UNITED STATES.—With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Treasury Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

“(3) NOTICE OF EXERCISE OF SECRETARY’S POWER.—If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Treasury Inspector

1 General in writing stating the reasons for such exer-
2 cise. Within 30 days after receipt of any such notice,
3 the Treasury Inspector General shall transmit a
4 copy of such notice to the Committees on Govern-
5 mental Affairs and Finance of the Senate and the
6 Committees on Government Operations and Ways
7 and Means of the House of Representatives, and to
8 other appropriate committees or subcommittees of
9 the Congress.

10 “(4) LIMITATION ON EXERCISE OF SEC-
11 RETARY’S POWER.—The Secretary of the Treasury
12 may not exercise any power under paragraph (1) or
13 (2) with respect to the duties and responsibilities of
14 the Treasury Inspector General concerning the In-
15 ternal Revenue Service, the Internal Revenue Service
16 Oversight Board, or the Office of Chief Counsel of
17 the Internal Revenue Service.

18 “(c) AUTHORITY OF TREASURY INSPECTOR GEN-
19 ERAL.—

20 “(1) INSPECTOR GENERAL ACT OF 1978.—The
21 Office of the Treasury Inspector General shall be
22 deemed an establishment of an office of Inspector
23 General under the Inspector General Act of 1978.
24 The Treasury Inspector General shall exercise all
25 duties and responsibilities of an Inspector General of

1 an establishment with respect to the Department of
2 the Treasury and the Secretary of the Treasury.

3 “(2) GENERAL AUTHORITY FOR AUDITS AND
4 INVESTIGATIONS.—Subject to subsection (b), the
5 Treasury Inspector General may initiate, conduct,
6 and supervise such audits and investigations in the
7 Department of the Treasury as the Treasury Inspec-
8 tor General considers appropriate.

9 “(3) NOTICE OF AUDITS AND INVESTIGA-
10 TIONS.—If the Treasury Inspector General initiates
11 an audit or investigation under paragraph (2), the
12 Treasury Inspector General may provide the head of
13 the affected bureau or office that is the subject of
14 the audit or investigation with written notice that
15 the Treasury Inspector General has initiated such
16 audit or investigation. If the Treasury Inspector
17 General issues a notice under the preceding sen-
18 tence, no other audit or investigation shall be initi-
19 ated into the matter under audit or investigation by
20 the Treasury Inspector General and any other audit
21 or investigation of such matter shall cease.

22 “(4) ADDITIONAL DUTIES.—

23 “(A) ANNUAL REPORTING.—The Treasury
24 Inspector General shall include in one of the

1 semiannual reports under section 5 of the In-
2 specter General Act of 1978—

3 “(i) an evaluation of the compliance of
4 the Internal Revenue Service with—

5 “(I) restrictions under section
6 1204 of the Internal Revenue Service
7 Restructuring and Reform Act of
8 1998 on the use of enforcement statis-
9 tics to evaluate Internal Revenue
10 Service employees,

11 “(II) restrictions under section
12 7521 on directly contacting taxpayers
13 who have indicated that they prefer
14 their representatives be contacted,

15 “(III) required procedures under
16 section 6320 upon the filing of a no-
17 tice of a lien,

18 “(IV) required procedures under
19 subchapter D of chapter 64 for sei-
20 zure of property for collection of
21 taxes, including required procedures
22 under section 6330 regarding levies,
23 and

24 “(V) restrictions under section
25 3707 of the Internal Revenue Service

1 Restructuring and Reform Act of
2 1998 on designation of taxpayers,

3 “(ii) a review and a certification of
4 whether or not the Secretary is complying
5 with the requirements of section
6 6103(e)(8) to disclose information to an
7 individual filing a joint return on collection
8 activity involving the other individual filing
9 the return,

10 “(iii) information regarding extensions
11 of the statute of limitations for assessment
12 and collection of tax under section 6501
13 and the provision of notice to taxpayers re-
14 garding requests for such extension,

15 “(iv) an evaluation of the adequacy
16 and security of the technology of the Inter-
17 nal Revenue Service,

18 “(v) any termination or mitigation
19 under section 1203 of the Internal Rev-
20 enue Service Restructuring and Reform
21 Act of 1998,

22 “(vi) information regarding improper
23 denial of requests for information from the
24 Internal Revenue Service identified under
25 subparagraph (C)(i), and

1 “(vii) information regarding any ad-
2 ministrative or civil actions with respect to
3 violations of the fair debt collection provi-
4 sions of section 6304, including—

5 “(I) a summary of such actions
6 initiated since the date of the last re-
7 port, and

8 “(II) a summary of any judg-
9 ments or awards granted as a result
10 of such actions.

11 “(B) SEMIANNUAL REPORTS.—

12 “(i) IN GENERAL.—The Treasury In-
13 spector General shall include in each semi-
14 annual report under section 5 of the In-
15 spector General Act of 1978—

16 “(I) the number of taxpayer com-
17 plaints during the reporting period,

18 “(II) the number of employee
19 misconduct and taxpayer abuse allega-
20 tions received by the Internal Revenue
21 Service or the Inspector General dur-
22 ing the period from taxpayers, Inter-
23 nal Revenue Service employees, and
24 other sources,

1 “(III) a summary of the status of
2 such complaints and allegations, and

3 “(IV) a summary of the dispo-
4 tion of such complaints and allega-
5 tions, including the outcome of any
6 Department of Justice action and any
7 monies paid as a settlement of such
8 complaints and allegations.

9 “(ii) Subclauses (III) and (IV) of
10 clause (i) shall only apply to complaints
11 and allegations of serious employee mis-
12 conduct.

13 “(C) OTHER RESPONSIBILITIES.—The
14 Treasury Inspector General shall—

15 “(i) conduct periodic audits of a sta-
16 tistically valid sample of the total number
17 of determinations made by the Internal
18 Revenue Service to deny written requests
19 to disclose information to taxpayers on the
20 basis of section 6103 of this title or section
21 552(b)(7) of title 5, United States Code,
22 and

23 “(ii) establish and maintain a toll-free
24 telephone number for taxpayers to use to
25 confidentially register complaints of mis-

1 conduct by Internal Revenue Service em-
2 ployees and incorporate the telephone num-
3 ber in the statement required by section
4 6227 of the Omnibus Taxpayer Bill of
5 Rights (Internal Revenue Service Publica-
6 tion No. 1).

7 “(d) RELATING TO ADMINISTRATIVE REVIEW OF DE-
8 CISIONS.—An audit or investigation conducted by the
9 Treasury Inspector General shall not affect a final deci-
10 sion of the Secretary under section 6406.

11 “(e) TRANSMISSION OF REPORTS TO CONGRESS.—

12 “(1) IN GENERAL.—Any report required to be
13 transmitted by the Secretary to the appropriate com-
14 mittees or subcommittees of the Congress under sec-
15 tion 5(d) of the Inspector General Act of 1978 shall
16 also be transmitted, within the seven-day period
17 specified under such section, to the Committees on
18 Governmental Affairs and Finance of the Senate
19 and the Committees on Government Reform and
20 Oversight and Ways and Means of the House of
21 Representatives.

22 “(2) REPORTS RELATING TO THE IRS.—Any re-
23 port made by the Treasury Inspector General con-
24 cerning the Internal Revenue Service, the Internal
25 Revenue Service Oversight Board, or the Office of

1 Chief Counsel of the Internal Revenue Service that
2 is required to be transmitted by the Secretary to the
3 appropriate committees or subcommittees of Con-
4 gress under section 5(d) of the Inspector General of
5 1978 shall also be transmitted, within the 7-day pe-
6 riod specified under such section, to the Internal
7 Revenue Service Oversight Board and the Commis-
8 sioner of Internal Revenue.

9 “(f) ADDITIONAL SELECTION CRITERIA FOR TREAS-
10 URY INSPECTOR GENERAL.—In addition to the require-
11 ments of the first sentence of section 3(a) of the Inspector
12 General Act of 1978, the Treasury Inspector General
13 should have demonstrated ability to lead a large and com-
14 plex organization.

15 “(g) TREASURY INSPECTOR GENERAL NOT EM-
16 PLOYEE OF IRS.—An individual appointed to the position
17 of Treasury Inspector General may not be an employee
18 of the Internal Revenue Service—

19 “(1) during the 2-year period preceding the
20 date of appointment to such position, or

21 “(2) during the 5-year period following the date
22 such individual ends service in such position.

23 “(h) CRIMINAL AUTHORITY.—

24 “(1) IN GENERAL.—In addition to the duties
25 and responsibilities exercised by an Inspector Gen-

1 eral of an establishment, the Treasury Inspector
2 General—

3 “(A) shall have the authority and duty to
4 enforce the criminal provisions within the scope
5 of the Treasury Inspector General’s jurisdic-
6 tion, powers, duties and responsibilities as an
7 Inspector General of an establishment under
8 the Inspector General Act of 1978 and under
9 this section,

10 “(B) in enforcing the criminal provisions
11 described in subparagraph (A), shall have the
12 authority to—

13 “(i) execute and serve search warrants
14 and arrest warrants, and serve subpoenas
15 and summonses issued under authority of
16 the United States,

17 “(ii) make arrests without warrant for
18 any offense against the United States re-
19 lating to the laws under the jurisdiction,
20 powers, duties and responsibilities of the
21 Treasury Inspector General committed in
22 the presence of an employee of the Treas-
23 ury Inspector General authorized to en-
24 force such laws, or for any felony cog-
25 nizable under such laws if there is a rea-

1 sonable ground to believe that the person
2 to be arrested has committed or is committing
3 any such felony,

4 “(iii) make seizures of property subject
5 to forfeiture under such laws, and

6 “(iv) carry firearms,

7 “(C) shall be responsible for protecting the
8 Department of the Treasury against external
9 attempts to corrupt or threaten employees of
10 the Department of the Treasury, but shall not
11 be responsible for the conducting of background
12 checks, and

13 “(D) may designate any employee in the
14 Office of the Treasury Inspector General to enforce
15 such laws and perform such functions referred
16 to under subparagraphs (A), (B), and
17 (C).

18 “(2) REPORTING TO ATTORNEY GENERAL OF
19 UNITED STATES.—

20 “(A) IN GENERAL.—In performing a law
21 enforcement function under paragraph (1), the
22 Treasury Inspector General shall report any
23 reasonable grounds to believe there has been a
24 violation of Federal criminal law to the Attorney
25 General of the United States at an appro-

1 priate time as determined by the Treasury In-
2 specter General, notwithstanding section 4(d) of
3 the Inspector General Act of 1978.

4 “(B) EXCEPTION.—In the administration
5 of section 5(d) of the Inspector General Act of
6 1978 and subsection (e)(2) of this section, the
7 Secretary of the Treasury may transmit the re-
8 quired report at an appropriate time as deter-
9 mined by the Secretary, if the problem, abuse,
10 or deficiency relates to—

11 “(i) the performance of a law enforce-
12 ment function under paragraph (1) of this
13 subsection, and

14 “(ii) sensitive information concerning
15 matters under any of the subsection
16 (b)(1)(A) through (F).

17 “(3) RULE OF CONSTRUCTION.—Nothing in
18 this subsection shall be construed to affect the au-
19 thority of any other person to carry out or enforce
20 any provision specified in paragraph (1).

21 “(i) SPECIAL RULES RELATING TO INTERNAL REV-
22 ENUE SERVICE.—

23 “(1) IN GENERAL.—The Commissioner of In-
24 ternal Revenue or the Internal Revenue Service
25 Oversight Board may request, in writing, the Treas-

1 ury Inspector General to conduct an audit or inves-
2 tigation relating to the Internal Revenue Service, the
3 Internal Revenue Service Oversight Board, or the of-
4 fice of Chief Counsel of the Internal Revenue Serv-
5 ice. If the Treasury Inspector General determines
6 not to conduct such audit or investigation, the
7 Treasury Inspector General shall timely provide a
8 written explanation for such determination to the
9 person making the request.

10 “(2) REPORTS.—

11 “(A) AUDITS.—Any final report of an
12 audit conducted by the Treasury Inspector Gen-
13 eral concerning the Internal Revenue Service,
14 the Internal Revenue Service Oversight Board,
15 or the Office of the Chief Counsel of the Inter-
16 nal Revenue Service shall be timely submitted
17 by the Treasury Inspector General to the Com-
18 missioner of Internal Revenue and the Internal
19 Revenue Service Oversight Board.

20 “(B) INVESTIGATIONS.—The Treasury In-
21 specter General shall periodically submit to the
22 Commissioner and Board a list of investigations
23 concerning the Internal Revenue Service, the
24 Internal Revenue Service Oversight Board, or
25 the Office of the Chief Counsel of the Internal

1 Revenue Service for which a final report has
 2 been completed by the Treasury Inspector Gen-
 3 eral and shall provide a copy of any such report
 4 upon request of the Commissioner or Board.

5 “(C) APPLICATION.—This paragraph ap-
 6 plies regardless of whether the applicable audit
 7 or investigation is requested under paragraph
 8 (1).”.

9 (b) CONFORMING AMENDMENTS TO THE INTERNAL
 10 REVENUE CODE OF 1986.—

11 (1) The following provisions of the Internal
 12 Revenue Code of 1986 are each amended by striking
 13 “Treasury Inspector General for Tax Administra-
 14 tion” each place it appears in the headings and the
 15 text and inserting “Treasury Inspector General”:

16 (A) Section 6103(h)(6).

17 (B) Section 6103(k)(6).

18 (C) Section 7217(b).

19 (D) Section 7803(c)(2)(B)(iv).

20 (2) Section 6103(p)(3) of such Code is amend-
 21 ed by adding at the end the following new subpara-
 22 graph:

23 “(D) SPECIAL RULE RELATING TO THE
 24 TREASURY INSPECTOR GENERAL.—The excep-
 25 tion under subparagraph (A) that the Secretary

1 not be required to maintain records or account-
2 ings shall not apply with respect to the Treas-
3 ury Inspector General.”.

4 (3) Section 6103(p)(4) of such Code is amend-
5 ed by inserting “the Treasury Inspector General,”
6 before “the General Accounting Office”.

7 (4) Section 7803 of such Code is amended by
8 striking subsection (d).

9 (5) Section 7608(b) of such Code is amended
10 by striking “of the Intelligence Division”.

11 (c) CONFORMING AMENDMENTS TO INSPECTOR GEN-
12 ERAL ACT OF 1978.—

13 (1) Section 2 of the Inspector General Act of
14 1978 (5 U.S.C. App.) is amended by striking “estab-
15 lished—” and all that follows and inserting “estab-
16 lished in each of such establishments an Office of
17 Inspector General.”.

18 (2) The Inspector General Act of 1978 (5
19 U.S.C. App.) is amended by striking section 8D.

20 (d) CLERICAL AMENDMENT.—The table of sections
21 for subchapter A of chapter 80 of such Code is amended
22 by inserting after the item relating to section 7804 the
23 following new item:

“Sec. 7804A. Office of the Treasury Inspector General.”.

1 **SEC. 3. TRANSFER OF OFFICE OF THE INSPECTOR GEN-**
2 **ERAL OF THE DEPARTMENT OF THE TREAS-**
3 **URY TO THE OFFICE OF TREASURY INSPEC-**
4 **TOR GENERAL FOR TAX ADMINISTRATION.**

5 (a) IN GENERAL.—The Office of the Inspector Gen-
6 eral of the Department of the Treasury is hereby trans-
7 ferred to the Office of Treasury Inspector General for Tax
8 Administration.

9 (b) ABOLISHMENT OF OFFICE OF THE INSPECTOR
10 GENERAL OF THE DEPARTMENT OF THE TREASURY.—
11 Effective upon the transfer under subsection (a) and con-
12 sistent with the Inspector General Act of 1978 (as amend-
13 ed by this Act), the Office of Inspector General of the De-
14 partment of the Treasury established by the Inspector
15 General Act Amendments of 1988 is abolished.

16 (c) RENAMING OF TREASURY INSPECTOR GENERAL
17 FOR TAX ADMINISTRATION.—The Office of Treasury In-
18 spector General for Tax Administration is hereby redesign-
19 nated as the Office of the Treasury Inspector General.

20 (d) TRANSFER OF FUNCTIONS, ETC.—Subparagraph
21 (L) of section 9(a)(1) of the Inspector General Act of
22 1978 (5 U.S.C. App.) is amended to read as follows:

23 “(L) of the Department of the Treasury
24 (established by the Department of the Treasury
25 Inspector General Consolidation Act of 2003),
26 the offices of that department referred to as the

1 ‘Office of the Inspector General of the Depart-
2 ment of the Treasury’ (established by the In-
3 specter General Act Amendments of 1988);”.

4 **SEC. 4. SAVINGS PROVISIONS.**

5 (a) COMPLETED OR PENDING MATTERS.—Completed
6 or pending administrative actions, proceedings, orders, de-
7 terminations, rules, regulations, personnel actions, per-
8 mits, agreements, grants, contracts, certificates, licenses,
9 registrations, privileges, or civil actions, of either the In-
10 specter General of the Department of the Treasury or the
11 Treasury Inspector General for Tax Administration shall
12 not be affected by the enactment of this Act or the consoli-
13 dation of the Office of the Inspector General of the De-
14 partment of the Treasury and the Office of the Treasury
15 Inspector General for Tax Administration under this Act
16 as the Office of the Treasury Inspector General, but shall
17 continue in effect according to their terms until amended,
18 modified, superseded, terminated, set aside, or revoked, in
19 accordance with law by an officer of the United States
20 or a court of competent jurisdiction, or by operation of
21 law.

22 (b) REFERENCES.—Any reference to either the In-
23 specter General of the Department of the Treasury or the
24 Treasury Inspector General for Tax Administration in any
25 statute, Executive Order, rule, regulation, directive, or del-

1 egation of authority that precedes the effective date of this
2 Act shall be deemed to be a reference to the Treasury In-
3 spector General established under the Inspector General
4 Act of 1978, as amended by this Act, unless otherwise pro-
5 vided by this Act or the Inspector General Act of 1978.

6 **SEC. 5. TRANSITION PROVISION.**

7 The President may designate an individual to serve
8 as the Treasury Inspector General (as consolidated under
9 section 2 of this Act and the amendments made by this
10 Act) until a Treasury Inspector General is appointed pur-
11 suant to section 3 of the Inspector General Act of 1978.

12 **SEC. 6. EFFECTIVE DATE.**

13 This Act and the amendments made by this Act shall
14 take effect 120 days after the date of the enactment of
15 this Act.

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