

110TH CONGRESS
2D SESSION

S. 3121

To amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to waive the penalties for failure to disclose reportable transactions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2008

Mr. NELSON of Nebraska (for himself, Mr. ROBERTS, Mr. CRAPO, Mr. BAYH, and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to waive the penalties for failure to disclose reportable transactions, 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. WAIVER AND MODIFICATION OF PENALTIES**
4 **FOR FAILURE TO DISCLOSE REPORTABLE**
5 **TRANSACTIONS.**

6 (a) IN GENERAL.—Subsection (d) of section 6707A
7 of the Internal Revenue Code of 1986 (relating to author-
8 ity to rescind penalty) is amended to read as follows:

1 “(d) AUTHORITY TO RESCIND OR WAIVE PEN-
2 ALTY.—

3 “(1) IN GENERAL.—The Secretary may rescind
4 or waive all or any portion of any penalty imposed
5 by this section with respect to any violation if—

6 “(A) there was reasonable cause for the
7 violation and the taxpayer acted in good faith,
8 or

9 “(B) rescinding or waiving the penalty
10 would promote compliance with the require-
11 ments of this title and effective tax administra-
12 tion.

13 “(2) NO JUDICIAL APPEAL.—Notwithstanding
14 any other provision of law, any determination under
15 this subsection may not be reviewed in any judicial
16 proceeding.

17 “(3) RECORDS.—If a penalty is rescinded or
18 waived under paragraph (1), the Secretary shall set
19 forth in writing the opinion of the Secretary with re-
20 spect to the determination, including—

21 “(A) a statement of the facts and cir-
22 cumstances relating to the violation,

23 “(B) the reasons for the rescission or waiv-
24 er, and

1 “(C) the amount of the penalty rescinded
2 or waived.”.

3 (b) CONFORMING AMENDMENT.—Subsection (c) of
4 section 6707 of the Internal Revenue Code of 1986 (relat-
5 ing to rescission authority) is amended to read as follows:

6 “(c) RESCISSION AUTHORITY.—

7 “(1) IN GENERAL.—The Commissioner of In-
8 ternal Revenue may rescind all or any portion of any
9 penalty imposed by this section with respect to any
10 violation if—

11 “(A) the violation is with respect to a re-
12 portable transaction other than a listed trans-
13 action, and

14 “(B) rescinding the penalty would promote
15 compliance with the requirements of this title
16 and effective tax administration.

17 “(2) NO JUDICIAL APPEAL.—Notwithstanding
18 any other provision of law, any determination under
19 this subsection may not be reviewed in any judicial
20 proceeding.

21 “(3) RECORDS.—If a penalty is rescinded under
22 paragraph (1), the Commissioner shall place in the
23 file in the Office of the Commissioner the opinion of
24 the Commissioner with respect to the determination,
25 including—

1 “(A) a statement of the facts and cir-
2 cumstances relating to the violation,
3 “(B) the reasons for the rescission, and
4 “(C) the amount of the penalty re-
5 scinded.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to penalties assessed after January
8 1, 2008.

○