

111TH CONGRESS
2D SESSION

S. 2917

AN ACT

To amend the Internal Revenue Code of 1986 to modify the penalty for failure to disclose certain reportable transactions and the penalty for submitting a bad check to the Internal Revenue Service, to modify certain rules relating to Federal vendors, 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 “Small Business Pen-
 5 alty Fairness Act of 2009”.

6 **SEC. 2. LIMITATION ON PENALTY FOR FAILURE TO DIS-**
 7 **CLOSE REPORTABLE TRANSACTIONS BASED**
 8 **ON RESULTING TAX BENEFITS.**

9 (a) IN GENERAL.—Subsection (b) of section 6707A
 10 of the Internal Revenue Code of 1986 is amended to read
 11 as follows:

12 “(b) AMOUNT OF PENALTY.—

13 “(1) IN GENERAL.—Except as otherwise pro-
 14 vided in this subsection, the amount of the penalty
 15 under subsection (a) with respect to any reportable
 16 transaction shall be 75 percent of the decrease in
 17 tax shown on the return as a result of such trans-
 18 action (or which would have resulted from such
 19 transaction if such transaction were respected for
 20 Federal tax purposes).

21 “(2) MAXIMUM PENALTY.—The amount of the
 22 penalty under subsection (a) with respect to any re-
 23 portable transaction shall not exceed—

“(B) in the case of any other reportable
transaction, \$50,000 (\$10,000 in the case of a
natural person).

7 “(3) MINIMUM PENALTY.—The amount of the
8 penalty under subsection (a) with respect to any
9 transaction shall not be less than \$10,000 (\$5,000
10 in the case of a natural person).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

14 SEC. 3. REPORT ON TAX SHELTER PENALTIES AND CER-
15 TAIN OTHER ENFORCEMENT ACTIONS.

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1 (1) Section 6662A (relating to accuracy-related
2 penalty on understatements with respect to report-
3 able transactions).

4 (2) Section 6700(a) (relating to promoting abu-
5 sive tax shelters).

6 (3) Section 6707 (relating to failure to furnish
7 information regarding reportable transactions).

8 (4) Section 6707A (relating to failure to include
9 reportable transaction information with return).

10 (5) Section 6708 (relating to failure to main-
11 tain lists of advisees with respect to reportable
12 transactions).

13 (b) **ADDITIONAL INFORMATION.**—The report re-
14 quired under subsection (a) shall also include information
15 on the following with respect to each year:

16 (1) Any action taken under section 330(b) of
17 title 31, United States Code, with respect to any re-
18 portable transaction (as defined in section 6707A(c)
19 of the Internal Revenue Code of 1986).

20 (2) Any extension of the time for assessment of
21 tax enforced, or assessment of any amount under
22 such an extension, under paragraph (10) of section
23 6501(c) of the Internal Revenue Code of 1986.

1 (c) DATE OF REPORT.—The first report required
2 under subsection (a) shall be submitted not later than
3 June 1, 2010.

4 **SEC. 4. APPLICATION OF BAD CHECKS PENALTY TO ELEC-**
5 **TRONIC PAYMENTS.**

6 (a) IN GENERAL.—Section 6657 of the Internal Rev-
7 enue Code of 1986 is amended—

8 (1) by striking “If any check or money order in
9 payment of any amount” and inserting “If any in-
10 strument in payment, by any commercially accept-
11 able means, of any amount”, and

12 (2) by striking “such check” each place it ap-
13 pears and inserting “such instrument”.

14 (b) EFFECTIVE DATES.—The amendments made by
15 this section shall apply to instruments tendered after the
16 date of the enactment of this Act.

17 **SEC. 5. APPLICATION OF LEVY TO PAYMENTS TO FEDERAL**
18 **VENDORS RELATING TO PROPERTY.**

19 (a) IN GENERAL.—Section 6331(h)(3) of the Inter-
20 nal Revenue Code of 1986 is amended by striking “goods
21 or services” and inserting “property, goods, or services”.

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

Passed the Senate February 9 (legislative day, February 8), 2010.

Attest:

Secretary.

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