

114TH CONGRESS
2D SESSION

S. 3353

To amend title 31, United States Code, to prohibit the Internal Revenue Service from carrying out seizures relating to a structuring transaction unless the property to be seized derived from an illegal source or the funds were structured for the purpose of concealing the violation of another criminal law or regulation, to require notice and a post-seizure hearing for such seizures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2016

Mr. SCOTT (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Restraining Excessive
3 Seizure of Property through the Exploitation of Civil
4 Asset Forfeiture Tools Act” or the “RESPECT Act”.

5 **SEC. 2. INTERNAL REVENUE SERVICE SEIZURE REQUIRE-**
6 **MENTS WITH RESPECT TO STRUCTURING**
7 **TRANSACTIONS.**

8 Section 5317(c)(2) of title 31, United States Code,
9 is amended—

10 (1) by striking “Any property” and inserting
11 the following:

12 “(A) IN GENERAL.—Any property”; and

13 (2) by adding at the end the following:

14 “(B) INTERNAL REVENUE SERVICE SEI-
15 ZURE REQUIREMENTS WITH RESPECT TO
16 STRUCTURING TRANSACTIONS.—

17 “(i) PROPERTY DERIVED FROM AN IL-
18 LEGAL SOURCE.—Property may only be
19 seized by the Internal Revenue Service
20 pursuant to subparagraph (A) by reason of
21 a claimed violation of section 5324 if the
22 property to be seized was derived from an
23 illegal source or the funds were structured
24 for the purpose of concealing the violation
25 of a criminal law or regulation other than
26 section 5324.

1 “(ii) NOTICE.—Not later than 30
2 days after property is seized by the Inter-
3 nal Revenue Service pursuant to subpara-
4 graph (A), the Internal Revenue Service
5 shall—

6 “(I) make a good faith effort to
7 find all persons with an ownership in-
8 terest in such property; and

9 “(II) provide each such person
10 with a notice of the person’s rights
11 under clause (iv).

12 “(iii) EXTENSION OF NOTICE UNDER
13 CERTAIN CIRCUMSTANCES.—The Internal
14 Revenue Service may apply to a court of
15 competent jurisdiction for one 30-day ex-
16 tension of the notice requirement under
17 clause (ii) if the Internal Revenue Service
18 can establish probable cause of an immi-
19 nent threat to national security or personal
20 safety necessitating such extension.

21 “(iv) POST-SEIZURE HEARING.—If a
22 person with a property interest in property
23 seized pursuant to subparagraph (A) by
24 the Internal Revenue Service requests a
25 hearing by a court of competent jurisdic-

1 tion within 30 days after the date on which
 2 notice is provided under clause (ii), such
 3 property shall be returned unless the court
 4 holds an adversarial hearing and finds
 5 within 30 days of such request (or such
 6 longer period as the court may provide, but
 7 only on request of an interested party)
 8 that there is probable cause to believe that
 9 there is a violation of section 5324 involv-
 10 ing such property and probable cause to
 11 believe that the property to be seized was
 12 derived from an illegal source or the funds
 13 were structured for the purpose of con-
 14 cealing the violation of a criminal law or
 15 regulation other than section 5324.”.

16 **SEC. 3. EXCLUSION OF INTEREST RECEIVED IN ACTION TO**
 17 **RECOVER PROPERTY SEIZED BY THE INTER-**
 18 **NAL REVENUE SERVICE BASED ON STRUC-**
 19 **TURING TRANSACTION.**

20 (a) IN GENERAL.—Part III of subchapter B of chap-
 21 ter 1 of the Internal Revenue Code of 1986 is amended
 22 by inserting before section 140 the following new section:

1 **“SEC. 139G. INTEREST RECEIVED IN ACTION TO RECOVER**
 2 **PROPERTY SEIZED BY THE INTERNAL REV-**
 3 **ENUE SERVICE BASED ON STRUCTURING**
 4 **TRANSACTION.**

5 “Gross income shall not include any interest received
 6 from the Federal Government in connection with an action
 7 to recover property seized by the Internal Revenue Service
 8 pursuant to section 5317(c)(2) of title 31, United States
 9 Code, by reason of a claimed violation of section 5324 of
 10 such title.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 for part III of subchapter B of chapter 1 of such Code
 13 is amended by inserting before the item relating to section
 14 140 the following new item:

“Sec. 139G. Interest received in action to recover property seized by the Internal Revenue Service based on structuring transaction.”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to interest received on or after the
 17 date of the enactment of this Act.

