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THE IRS WHISTLEBLOWER PROGRAM IMPROVEMENT ACT OF 2023

Since the modernization of Section 7623 in 2006, the IRS Whistleblower Award Program (WB Program) has enabled the IRS to successfully identify and pursue significant tax noncompliance. The program has resulted in the U.S. Treasury directly collecting over \$6 billion from wealthy individuals and businesses caught dodging taxes. The WB Program has retrieved additional billions through the Offshore Voluntary Disclosure Program, which was created as a direct result of actionable information brought to the IRS by whistleblowers.

The *IRS Whistleblower Program Improvement Act of 2023* would make commonsense clarifications and reforms to improve the WB Program, one of the IRS's most effective tools in going after tax cheats.

Specifically, the *IRS Whistleblower Program Improvement Act* would:

- **Provide for *De Novo* Review.** The current IRS WB statute provides a whistleblower the right to appeal an IRS award determination to the Tax Court. In a recent case, the Tax Court ruled it can only review IRS award determinations based on an “abuse of discretion” standard. This is a highly deferential standard. This provision clarifies that the Tax Court should review all such decisions “*De Novo*,” which will allow the Tax Court to take a fresh look at the record and evidence introduced on appeal to determine the soundness of the IRS decision.
- **Exempt WB awards from budget sequestration** to ensure that those who risk coming forward are not shortchanged from receiving their congressionally-mandated awards.
- **Create a presumption of anonymity for whistleblowers to proceed in Tax Court.** Efforts to disclose the whistleblower's identity put the individual in jeopardy and deter the willingness of other whistleblowers to come forward. This provision clarifies that the Tax Court should favor granting a whistleblower's request for anonymity unless there is a heightened societal interest in knowing the whistleblower's identity.
- **Require the IRS to issue a whistleblower award determination within one year of all proceeds being collected.** Whistleblower claims can take years to go through the IRS review and award determinations process, yet the IRS has sometimes dragged its feet on issuing whistleblower awards even after all proceeds have been collected. This provision

would ensure the IRS pays awards in a timely manner. Interest would only begin to accrue on an award if the IRS fails to act by the end of one year.

- **Ensure conformity of tax treatment of attorney's fees between the two IRS award programs and with other federal whistleblower award programs.** The 2006 amendments to 7623 provided that whistleblower attorney's fees would not be included in income under the new mandatory award program created under 7623(b). However, similar treatment was not put in place for awards under the discretionary IRS award program – 7623(a).
- **Improve annual reporting on the WB Program to Congress.** The WB Program's annual report to Congress would be required to list the top ten areas in which whistleblowers have identified tax avoidance schemes. This information will assist Congress's taxwriting committees in strengthening the tax laws.