

117TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to modify and reform rules relating to investigations and whistleblowers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend the Internal Revenue Code of 1986 to modify and reform rules relating to investigations and whistleblowers, 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 “IRS Whistleblower
5 Program Improvement Act of 2021”.

6 **SEC. 2. STANDARD AND SCOPE OF REVIEW OF WHISTLE-**
7 **BLOWER AWARD DETERMINATION.**

8 (a) IN GENERAL.—Paragraph (4) of section 7623(b)
9 of the Internal Revenue Code of 1986 is amended—

1 (1) by striking “appealed to” and inserting “re-
2 viewed by”, and

3 (2) by adding at the end the following: “Any re-
4 view by the Tax Court under the preceding sentence
5 shall be de novo and shall be based on the adminis-
6 trative record established at the time of the original
7 determination and any additional newly discovered
8 or previously unavailable evidence.”.

9 (b) CONFORMING AMENDMENT.—The heading of
10 paragraph (4) of section 7623(b) of the Internal Revenue
11 Code of 1986 is amended by striking “APPEAL” and in-
12 serting “REVIEW”,

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to cases under section 7623(b)(4)
15 of the Internal Revenue Code of 1986 which are pending
16 on, or filed on or after, the date of the enactment of this
17 Act.

18 **SEC. 3. EXEMPTION FROM SEQUESTRATION.**

19 (a) IN GENERAL.—Section 255 of the Balanced
20 Budget and Emergency Deficit Control Act of 1985 (2
21 U.S.C. 905) is amended—

22 (1) by redesignating subsection (k) as sub-
23 section (l); and

24 (2) by inserting after subsection (j) the fol-
25 lowing:

1 “(k) AWARDS TO WHISTLEBLOWERS.—An award au-
2 thORIZED under section 7623 of the Internal Revenue Code
3 of 1986 shall be exempt from reduction under any order
4 issued under this part.”.

5 (b) APPLICABILITY.—The amendment made by this
6 section shall apply to any sequestration order issued under
7 the Balanced Budget and Emergency Deficit Control Act
8 of 1985 (2 U.S.C. 900 et seq.) after December 31, 2020.

9 **SEC. 4. WHISTLEBLOWER PRIVACY PROTECTIONS.**

10 (a) IN GENERAL.—Paragraph (4) of section 7623(b)
11 of the Internal Revenue Code of 1986, as amended by sec-
12 tion 2, is further amended—

13 (1) by striking “DETERMINATION.—Any deter-
14 mination” and inserting “DETERMINATION.—

15 “(A) IN GENERAL.—Any determination”,

16 and

17 (2) by adding at the end the following new sub-
18 paragraph:

19 “(B) PRESUMPTION OF ANONYMITY.—For
20 purposes of Rule 345(a) of the Tax Court Rules
21 of Practice and Procedure (as in effect on the
22 date of the enactment of the IRS Whistleblower
23 Program Improvement Act of 2021), and any
24 successor rule, with respect to any action under
25 this paragraph there shall be a rebuttable pre-

1 sumption that a whistleblower would be subject
2 to retaliation, physical harm, social and profes-
3 sional stigma, or economic distress which out-
4 weighs the counterbalancing societal interests in
5 knowing the whistleblower’s identity.”.

6 (b) **EFFECTIVE DATE.**—The amendments made by
7 this section shall apply to petitions filed under Rule 345(a)
8 of the Tax Court Rules of Practice and Procedure which
9 are pending on, or filed on or after, the date of the enact-
10 ment of this Act.

11 **SEC. 5. MODIFICATION OF IRS WHISTLEBLOWER REPORT.**

12 (a) **IN GENERAL.**—Section 406(c) of division A of the
13 Tax Relief and Health Care Act of 2006 is amended by
14 striking “such use,” in paragraph (1) and inserting “such
15 use (which shall include a list and descriptions of the top
16 tax avoidance schemes, not to exceed 10, disclosed by
17 whistleblowers during such year),”.

18 (b) **EFFECTIVE DATE.**— The amendment made by
19 this section shall apply to reports the due date for which
20 are after the enactment of this Act.

21 **SEC. 6. INTEREST ON WHISTLEBLOWER AWARDS.**

22 (a) **IN GENERAL.**—Section 7623(b) of the Internal
23 Revenue Code of 1986 is amended by redesignating para-
24 graphs (5) and (6) as paragraphs (6) and (7), respectively,

1 and by inserting after paragraph (5) the following new
2 paragraph:

3 “(5) INTEREST.—

4 “(A) IN GENERAL.—If the Secretary has
5 not provided notice to an individual described in
6 paragraph (1) of a preliminary award deter-
7 mination before the applicable date, the amount
8 of any award under this subsection shall include
9 interest from such date at the overpayment rate
10 under section 6621(a).

11 “(B) EXCEPTION.—No interest shall ac-
12 crue under this paragraph after the date on
13 which the Secretary provides notice to the indi-
14 vidual of a preliminary award determination.

15 “(C) APPLICABLE DATE.—For purposes of
16 this paragraph, the applicable date is the date
17 that is 12 months after the first date on
18 which—

19 “(i) all of the proceeds resulting from
20 actions subject to the award determination
21 have been collected, and

22 “(ii) either—

23 “(I) the statutory period for fil-
24 ing a claim for refund has expired, or

1 “(II) the taxpayers subject to the
2 actions and the Secretary have agreed
3 with finality to the tax or other liabil-
4 ities for the periods at issue, and ei-
5 ther the taxpayers have waived the
6 right to file a claim for refund or any
7 claim for refund has been resolved.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **SEC. 7. RETENTION OF COLLECTED PROCEEDS TO FUND**
12 **PROGRAM COSTS.**

13 (a) **IN GENERAL.**—Section 7623 of the Internal Rev-
14 enue Code of 1986 is amended by adding at the end the
15 following new subsection:

16 “(e) **RETENTION OF COLLECTED PROCEEDS TO**
17 **FUND PROGRAM COSTS.**—

18 “(1) **IN GENERAL.**—The Secretary may retain
19 annually up to 3 percent of the amount of proceeds
20 collected as a result of actions described in sub-
21 section (a) (including any related actions) or from
22 any settlements in response to such actions to be
23 used for program costs (within the meaning of sec-
24 tion 6307(d)(2)) associated with administering the
25 whistleblower programs under this section, including

1 reimbursing the applicable divisions of the Internal
2 Revenue Service for costs associated with inves-
3 tigating whistleblower claims, except that the
4 amount so retained in any year shall not exceed
5 \$10,000,000. The Secretary shall keep adequate
6 records regarding amounts so retained and used.

7 “(2) COORDINATION RULES.—The amount
8 credited as paid by any taxpayer, and any award to
9 a whistleblower, shall be determined without regard
10 to this subsection.

11 “(3) ADJUSTMENT FOR INFLATION.—In the
12 case of calendar years beginning after 2022, the
13 \$10,000,000 amount in paragraph (1) shall be in-
14 creased by an amount equal to—

15 “(A) such dollar amount, multiplied by

16 “(B) the cost-of-living adjustment deter-
17 mined under section 1(f)(3) for the calendar
18 year in which the taxable year begins, deter-
19 mined by substituting ‘2021’ for ‘2016’ in sub-
20 paragraph (A)(ii) thereof.

21 If any increase under the preceding sentence is not
22 a multiple of \$10,000, such increase shall be round-
23 ed to the next lowest multiple of \$10,000.”.

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

4 **SEC. 8. CORRECTION REGARDING DEDUCTIONS FOR AT-**
5 **TORNEY'S FEES.**

6 (a) IN GENERAL.—Section 62(a)(21)(A)(i) of the In-
7 ternal Revenue Code of 1986 is amended by striking
8 “7623(b)” and inserting “7623”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years ending after the
11 date of the enactment of this Act.