

118TH CONGRESS
1ST SESSION

H. R. 1336

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2023

Mr. KELLY of Pennsylvania (for himself and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 2023”.

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

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

5 (1) by striking “appealed to” and inserting “re-
6 viewed by”; and

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

13 (b) CONFORMING AMENDMENT.—The heading of
14 paragraph (4) of section 7623(b) of the Internal Revenue
15 Code of 1986 is amended by striking “APPEAL” and in-
16 serting “REVIEW”.

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

22 **SEC. 3. EXEMPTION FROM SEQUESTRATION.**

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

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

3 (2) by inserting after subsection (j) the fol-
4 lowing:

5 “(k) AWARDS TO WHISTLEBLOWERS.—An award au-
6 thorized under section 7623 of the Internal Revenue Code
7 of 1986 shall be exempt from reduction under any order
8 issued under this part.”.

9 (b) APPLICABILITY.—The amendment made by this
10 section shall apply to any sequestration order issued under
11 the Balanced Budget and Emergency Deficit Control Act
12 of 1985 (2 U.S.C. 900 et seq.) after December 31, 2022.

13 **SEC. 4. WHISTLEBLOWER PRIVACY PROTECTIONS.**

14 (a) IN GENERAL.—Paragraph (6) of section 7623(b)
15 of the Internal Revenue Code of 1986 is amended by add-
16 ing at the end the following new subparagraph:

17 “(D) WHISTLEBLOWER ANONYMITY BE-
18 FORE THE TAX COURT.—Notwithstanding sec-
19 tions 7458 and 7461, the Tax Court shall grant
20 a whistleblower’s request to proceed anony-
21 mously before the Court for all proceedings
22 under this section absent a finding by the Tax
23 Court that a heightened societal interest exists
24 for disclosing the whistleblower’s identity, ex-
25 ceeding the normal interest in knowing a peti-

1 tioner’s identity. Should the Tax Court find
2 that such a heightened societal interest exists,
3 such interest shall be balanced against the po-
4 tential harm disclosure could cause to the whis-
5 tleblower.”.

6 (b) **EFFECTIVE DATE.**—The amendments made by
7 this section shall apply to petitions filed with the Tax
8 Court which are pending on, or filed on or after, the date
9 of the enactment of this Act.

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

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

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

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

21 (a) **IN GENERAL.**—Section 7623(b) of the Internal
22 Revenue Code of 1986 is amended by redesignating para-
23 graphs (5) and (6) as paragraphs (6) and (7), respectively,
24 and by inserting after paragraph (4) the following new
25 paragraph:

1 “(5) INTEREST.—

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

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

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

17 “(i) all of the proceeds resulting from
18 actions subject to the award recommenda-
19 tion have been collected, and

20 “(ii) either—

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

23 “(II) the taxpayers subject to the
24 actions and the Secretary have agreed
25 with finality to the tax or other liabil-

1 ities for the periods at issue, and ei-
2 ther the taxpayers have waived the
3 right to file a claim for refund or any
4 claim for refund has been resolved.”.

5 (b) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The amendments made by
7 this section shall take effect 180 days after the date
8 of the enactment of this Act.

9 (2) SPECIAL RULE.—In the case of a claim for
10 a whistleblower award under section 7623(b) of the
11 Internal Revenue Code of 1986 with respect to
12 which, as of the date described in paragraph (1)—

13 (A) the Secretary of the Treasury has not
14 provided notice to the individual of a prelimi-
15 nary award recommendation as described in
16 paragraph (5)(A) of such section, as added by
17 this Act, and

18 (B) the applicable date provided in para-
19 graph (5)(C) of such section, as so added, has
20 passed,

21 the applicable date for purposes of such paragraph
22 (5)(C) is the date that is 12 months after the date
23 described in paragraph (1).

1 **SEC. 7. CORRECTION REGARDING DEDUCTIONS FOR AT-**
2 **TORNEY'S FEES.**

3 (a) **IN GENERAL.**—Section 62(a)(21)(A)(i) of the In-
4 ternal Revenue Code of 1986 is amended by striking
5 “7623(b)” and inserting “7623”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
7 this section shall apply to taxable years ending after the
8 date of the enactment of this Act.

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