

112TH CONGRESS
1ST SESSION

S. 794

To amend the Internal Revenue Code of 1986 to disallow any deduction for punitive damages, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2011

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

A BILL

To amend the Internal Revenue Code of 1986 to disallow any deduction for punitive damages, 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 “Protecting American
5 Taxpayers from Misconduct Act”.

6 **SEC. 2. DISALLOWANCE OF DEDUCTION FOR PUNITIVE**
7 **DAMAGES.**

8 (a) DISALLOWANCE OF DEDUCTION.—

9 (1) IN GENERAL.—Section 162(g) of the Inter-
10 nal Revenue Code of 1986 is amended—

1 (A) by redesignating paragraphs (1) and
2 (2) as subparagraphs (A) and (B), respectively,
3 (B) by striking “If” and inserting:

4 “(1) TREBLE DAMAGES.—If”, and

5 (C) by adding at the end the following new
6 paragraph:

7 “(2) PUNITIVE DAMAGES.—No deduction shall
8 be allowed under this chapter for any amount paid
9 or incurred for punitive damages in connection with
10 any judgment in, or settlement of, any action. This
11 paragraph shall not apply to punitive damages de-
12 scribed in section 104(c).”.

13 (2) CONFORMING AMENDMENT.—The heading
14 for section 162(g) of such Code is amended by in-
15 sserting “OR PUNITIVE DAMAGES” after “LAWS”.

16 (b) INCLUSION IN INCOME OF PUNITIVE DAMAGES
17 PAID BY INSURER OR OTHERWISE.—

18 (1) IN GENERAL.—Part II of subchapter B of
19 chapter 1 of the Internal Revenue Code of 1986 is
20 amended by adding at the end the following new sec-
21 tion:

22 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
23 **ANCE OR OTHERWISE.**

24 “Gross income shall include any amount paid to or
25 on behalf of a taxpayer as insurance or otherwise by rea-

1 son of the taxpayer's liability (or agreement) to pay puni-
 2 tive damages.”.

3 (2) REPORTING REQUIREMENTS.—Section 6041
 4 of such Code is amended by adding at the end the
 5 following new subsection:

6 “(h) SECTION TO APPLY TO PUNITIVE DAMAGES
 7 COMPENSATION.—This section shall apply to payments by
 8 a person to or on behalf of another person as insurance
 9 or otherwise by reason of the other person's liability (or
 10 agreement) to pay punitive damages.”.

11 (3) CONFORMING AMENDMENT.—The table of
 12 sections for part II of subchapter B of chapter 1 of
 13 such Code is amended by adding at the end the fol-
 14 lowing new item:

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

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

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