

117TH CONGRESS
2D SESSION

H. R. 9640

IN THE SENATE OF THE UNITED STATES

DECEMBER 22, 2022

Received

AN ACT

To amend the Internal Revenue Code of 1986 to provide for examination and disclosure with respect to Presidential income tax returns.

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 “Presidential Tax Fil-
3 ings and Audit Transparency Act of 2022”.

4 **SEC. 2. EXAMINATION AND DISCLOSURE WITH RESPECT TO**
5 **PRESIDENTIAL INCOME TAX RETURNS.**

6 (a) AUDIT.—Subchapter A of chapter 78 of the Inter-
7 nal Revenue Code of 1986 is amended by redesignating
8 section 7613 as section 7614 and by inserting after section
9 7612 the following new section:

10 **“SEC. 7613. EXAMINATION WITH RESPECT TO PRESI-**
11 **DENTIAL INCOME TAX RETURNS.**

12 “(a) IN GENERAL.—As rapidly as practicable after
13 the filing of any Presidential income tax return, the Sec-
14 retary shall conduct an examination to ascertain the cor-
15 rectness of such return and enforce the requirements of
16 this title with respect to the taxable year covered by such
17 return.

18 “(b) REPORTS.—

19 “(1) INITIAL REPORT.—Not later than 90 days
20 after the filing of a Presidential income tax return,
21 the Secretary shall disclose and make publicly avail-
22 able an initial report regarding the examination with
23 respect to such return. Such report shall include—

24 “(A) the name of the taxpayer,

1 “(B) an identification of the subparagraph
2 of subsection (c)(1) which describes such re-
3 turn,

4 “(C) the date that such return was filed,
5 and

6 “(D) the date on which the examination
7 with respect to such return commenced (or, if
8 such examination has not commenced as of the
9 date of such report, a detailed description of the
10 reasons that such examination has not com-
11 menced).

12 “(2) PERIODIC REPORTS.—Not later than 180
13 days after the disclosure of the report described in
14 paragraph (1) with respect to any Presidential in-
15 come tax return and not later than 180 days after
16 the most recent disclosure of a report described in
17 this paragraph with respect to such return, the Sec-
18 retary shall disclose and make publicly available a
19 periodic report regarding the examination with re-
20 spect to such return. Such report shall include—

21 “(A) the information described in subpara-
22 graphs (A) through (D) of paragraph (1),

23 “(B) a description of the status of the ex-
24 amination, including a description of the por-
25 tions of the examination which have been com-

1 pleted, which are in process, and which are an-
2 ticipated to take place, and

3 “(C) an estimate of the time frame for the
4 completion of the examination, including an
5 identification of factors which could alter such
6 time frame, reasonable estimates of the likeli-
7 hood of such factors (taking into account the
8 specific facts and circumstances of the examina-
9 tion), and the likely specific effects of such fac-
10 tors on such time frame.

11 Notwithstanding the preceding sentence, a periodic
12 report shall not be required under this paragraph
13 with respect to any return after the date on which
14 a final report is disclosed under paragraph (3) with
15 respect to such return.

16 “(3) FINAL REPORT.—Not later than 90 days
17 after the completion of the examination described in
18 subsection (a) with respect to any Presidential in-
19 come tax return, the Secretary shall disclose and
20 make publicly available a final report regarding such
21 examination. Such report shall include—

22 “(A) the information described in subpara-
23 graphs (A) through (C) of paragraph (1),

24 “(B) the date on which the examination
25 with respect to such return was completed,

1 “(C) a list of the audit materials (as de-
2 fined in section 6103(q)(2)) with respect to
3 such examination, and

4 “(D) a description (including the amount)
5 of each proposed adjustment, adjustment, and
6 controversy with respect to such examination
7 together with a description of how such pro-
8 posed adjustment or controversy was resolved
9 (or a statement that such proposed adjustment
10 or controversy was not resolved, as the case
11 may be).

12 For purposes of this paragraph, an examination
13 shall be treated as complete on the date that the
14 Secretary provides the taxpayer with a notice of defi-
15 ciency, or any closing document referred to in sec-
16 tion 6103(q)(2)(A)(v), with respect to such examina-
17 tion.

18 “(4) EXTENSION OF DUE DATE REPORT.—If a
19 request is made for an extension of the due date for
20 filing any Presidential income tax return, the Sec-
21 retary shall, not later than 90 days after such re-
22 quest is granted or denied, disclose and make pub-
23 licly available an extension of due date report with
24 respect to return. Such report shall include—

1 “(A) the information described in subpara-
2 graphs (A) and (B) of paragraph (1),

3 “(B) a statement that an extension of the
4 due date for the filing of such return has been
5 requested,

6 “(C) the date that such request was re-
7 ceived,

8 “(D) a statement of whether such request
9 has been granted or denied, and

10 “(E) the due date of such return (includ-
11 ing any extensions).

12 “(5) TREATMENT OF FAILURE TO FILE.—In
13 the case of a failure to file a Presidential income tax
14 return before the close of the 60-day period begin-
15 ning with the date prescribed for filing of such re-
16 turn—

17 “(A) the Secretary shall conduct the exam-
18 ination described in subsection (a) with respect
19 to the taxable year covered by the return to
20 which such failure relates,

21 “(B) reports made pursuant to this para-
22 graph shall include a statement that such re-
23 port is with respect to a return which the tax-
24 payer failed to file, and

1 “(C) this section and section 6103(q) shall
2 otherwise apply to such failure in the same
3 manner as if a return were filed at the close of
4 such period.

5 The application of this paragraph with respect to
6 any failure to file a Presidential income tax return
7 shall not prevent the application of this section with
8 respect to such return at such time as such return
9 may be filed.

10 “(6) PUBLIC AVAILABILITY.—For purposes of
11 this subsection, a document shall not be treated as
12 having been made publicly available unless made
13 available on the Internet.

14 “(c) PRESIDENTIAL INCOME TAX RETURN.—For
15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘Presidential in-
17 come tax return’ means any relevant income tax re-
18 turn of—

19 “(A) a President,

20 “(B) an individual who is married (within
21 the meaning of section 7703(a)) to a President
22 for the taxable year to which such return re-
23 lates,

24 “(C) any corporation or partnership which
25 is controlled by any individual described in sub-

paragraph (A) or (B) at any time during the taxable year to which such return relates,

“(D) the estate of any person described in (A) or (B) or any estate with respect to which any person described in subparagraph (A), (B), or (C) is an executor, or beneficiary at any time during the taxable year to which such return relates, and

“(E) any trust with respect to which any person described in subparagraph (A), (B), (C), or (D) is a grantor, fiduciary or beneficiary, or for which another trust described in this subparagraph is a grantor or beneficiary, at any time during the taxable year to which such return relates.

Such term shall include any schedule, attachment, or other document filed with such return.

“(2) RELEVANT INCOME TAX RETURN.—The term ‘relevant income tax return’ means, with respect to a President, any income tax return if—

“(A) any portion of the taxable year to which such return relates is during the period that such President is the President,

“(B) the due date for such return (including any extensions) is during such period, or

1 “(C) such return is filed during such pe-
2 riod.

3 “(3) CONTROL.—For purposes of paragraph
4 (1)(C)—

5 “(A) IN GENERAL.—Except as otherwise
6 provided in this paragraph, control shall be de-
7 termined under the rules of paragraphs (2) and
8 (3) of section 6038(e) (determined without re-
9 gard to subparagraphs (A) and (B) of such
10 paragraph (2) and without regard to subpara-
11 graph (C) of paragraph (3) thereof).

12 “(B) RESTRICTION ON FAMILY ATTRIBU-
13 TION.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in clause (ii), for purposes of apply-
16 ing subparagraph (A)—

17 “(I) section 318 shall applied
18 without regard to subsection
19 (a)(1)(A)(ii) thereof, and

20 “(II) section 267(c) shall applied
21 by treating the family of an individual
22 as including only such individual’s
23 spouse (in lieu of the application of
24 paragraph (4) thereof).

1 “(ii) EXCEPTION FOR RECENT TRANS-
2 FER TO FAMILY MEMBERS.—For purposes
3 of determining whether any corporation or
4 partnership is controlled by a President
5 under paragraph (1)(C) for any taxable
6 year, clause (i) shall not apply if such cor-
7 poration or partnership was controlled by
8 such President (after application of clause
9 (i)) at any time during the 4 immediately
10 preceding taxable years.

11 “(d) APPLICATION TO AMENDED RETURNS.—For
12 purposes of this section and section 6103(q), any amend-
13 ment or supplement to a return of tax shall be treated
14 as a separate return of tax and the determination of when
15 such amendment or supplement is filed, and whether such
16 amendment or supplement is a relevant income tax return,
17 shall be made without regard to the underlying return.”.

18 (b) DISCLOSURE.—Section 6103 of such Code is
19 amended by redesignating subsection (q) as subsection (r)
20 and by inserting after subsection (p) the following new
21 subsection:

22 “(q) DISCLOSURE WITH RESPECT TO PRESIDENTIAL
23 INCOME TAX RETURNS.—

1 “(1) IN GENERAL.—The Secretary shall dis-
2 close and make publicly available (within the mean-
3 ing of section 7613(b))—

4 “(A) each Presidential income tax return
5 (as defined in section 7613(c)),

6 “(B) each report described in section
7 7613(b), and

8 “(C) any audit materials with respect a re-
9 turn described in subparagraph (A).

10 “(2) AUDIT MATERIALS.—The term ‘audit ma-
11 terials’ means, with respect to any return:

12 “(A) Any of the following which are pro-
13 vided by the Secretary to the taxpayer (or any
14 designee of the taxpayer):

15 “(i) Any written communication which
16 identifies such return as being subject to
17 examination.

18 “(ii) Any written communication
19 which proposes the adjustment of any item
20 on such return, any report by an examiner
21 related to such proposed adjustment, and
22 any supervisory approval of any penalty
23 proposed as part of such adjustment.

24 “(iii) Any memorandum or report of
25 the Internal Revenue Service Independent

1 Office of Appeals with respect to such re-
2 turn, and any denial of any request de-
3 scribed in subparagraph (B).

4 “(iv) Any notice of deficiency with re-
5 spect to such return.

6 “(v) Any closing documents with re-
7 spect to the examination of such return,
8 including any closing agreement or no
9 change letter.

10 “(B) Any request for referral to the Inter-
11 nal Revenue Service Independent Office of Ap-
12 peals of any controversy with respect to such
13 return.

14 “(C) Any petition filed with the Tax Court
15 for a redetermination of any deficiency referred
16 to in subparagraph (A)(iv).

17 “(3) EXCEPTION FOR CERTAIN IDENTITY IN-
18 FORMATION.—The information disclosed and made
19 publicly available under paragraph (1) shall not in-
20 clude any identification number of any person (in-
21 cluding any social security number), any financial
22 account number, the name of any individual who has
23 not attained age 18 (as of the close of the taxable
24 year to which the return relates), the name of any
25 employee of the Department of the Treasury, or any

1 address (other than the city and State in which such
2 address is located).

3 “(4) TIMING OF DISCLOSURES.—Any informa-
4 tion required to be disclosed under paragraph (1)
5 shall be disclosed and made publicly available not
6 later than—

7 “(A) in the case of any income tax return
8 referred to in paragraph (1)(A), 90 days after
9 the date that such return is filed,

10 “(B) in the case of any report referred to
11 in paragraph (1)(B), the deadline specified in
12 section 7613(b) for disclosing such report, and

13 “(C) in the case of the audit materials re-
14 ferred to in paragraph (1)(C), 90 days after the
15 completion of the examination (within the
16 meaning of section 7613(b)(3)) with respect to
17 the return to which such audit materials re-
18 late.”.

19 (c) CLERICAL AMENDMENT.—Subchapter A of chap-
20 ter 78 of such Code is amended by redesignating the item
21 relating to section 7613 as an item relating to section
22 7614 and by inserting after the item relating to section
23 7612 the following new item:

“Sec. 7613. Examination with respect to Presidential income tax returns.”.

24 (d) EFFECTIVE DATE.—The amendments made by
25 this subsection shall apply to returns, amendments, and

1 supplements filed (and failures to file returns which occur)
 2 after the date of the enactment of this Act (and to reports
 3 and audit materials with respect to such returns, amend-
 4 ments, supplements, and failures).

Passed the House of Representatives December 22,
 2022.

Attest: CHERYL L. JOHNSON,
Clerk.

By KEVIN F. McCUMBER,
Deputy Clerk.