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S. 2721

To require the Internal Revenue Service to issue a report on the tax gap, to establish a fellowship program within the Internal Revenue Service to recruit mid-career tax professionals to create and participate in an audit task force, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2021

Mr. CRAPO (for himself, Mr. TILLIS, Mr. BARRASSO, Mr. CASSIDY, Mr. CRAMER, Mr. BRAUN, Mr. RUBIO, Mr. ROUNDS, Mr. LANKFORD, Ms. MURKOWSKI, Mr. YOUNG, and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the Internal Revenue Service to issue a report on the tax gap, to establish a fellowship program within the Internal Revenue Service to recruit mid-career tax professionals to create and participate in an audit task force, 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. TAX GAP PROJECTION.**

4 (a) IN GENERAL.—Not later than 180 days after the
5 date of the enactment of this section, and no later than
6 July 31 annually thereafter, the Commissioner of Internal

1 Revenue shall submit to Congress a projection detailing
 2 the tax gap estimate for the most recent taxable year as
 3 is practicable using the most recently available data, and
 4 including identification and detailed descriptions of the
 5 data used for such projection and clear identification of
 6 the amount of the projected tax gap associated with non-
 7 filing, underreporting, and underpayment (including iden-
 8 tifying the amount subject to collection actions).

9 (b) USE OF ARTIFICIAL INTELLIGENCE.—To the ex-
 10 tent practicable, for purposes of reducing the burden on
 11 taxpayers subject to National Research Program audits,
 12 the Commissioner shall use artificial intelligence, including
 13 neural machine learning, and other available data analysis
 14 tools, including commercial analytic data providers, to cal-
 15 culate a projection described in subsection (a).

16 (c) NATIONAL RESEARCH PROGRAM AUDITS.—In
 17 calculating a projection described in subsection (a), the
 18 Commissioner of Internal Revenue shall not undertake
 19 more National Research Program audits in any one fiscal
 20 year than are undertaken in fiscal year 2021.

21 (d) TAX GAP.—For purposes of this section, the term
 22 “tax gap” means the difference between tax liabilities
 23 owed to the United States under the Internal Revenue
 24 Code of 1986 and those liabilities actually collected by the
 25 Internal Revenue Service.

1 **SEC. 2. JCT REPORT.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 submission of the first tax gap projection to Congress
4 under section 1, and not later than 90 days after the sub-
5 mission of each successive submission, the Chief of Staff
6 of the Joint Committee on Taxation shall submit to the
7 Committee on Ways and Means of the House of Rep-
8 resentatives and the Committee on Finance of the Senate
9 a report analyzing such projection, including—

- 10 (1) identification of methodologies used,
11 (2) any statistical or methodological uncertain-
12 ties,
13 (3) the effect of outdated data, if any, on the
14 accuracy of such projection, and
15 (4) such additional information as the Joint
16 Committee on Taxation determines is useful for
17 Congress to use to assess and analyze the tax gap
18 projections provided by the Commissioner of Inter-
19 nal Revenue.

20 (b) RELEASE OF INFORMATION.—For purposes of fa-
21 cilitating the report described in subsection (a), the Sec-
22 retary of the Treasury shall, in a timely manner, provide
23 to the Joint Committee on Taxation such information as
24 such committee requests.

1 **SEC. 3. RESTRICTION ON INCREASED ENFORCEMENT**
2 **FUNDS.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, no funds appropriated to the Department of
5 the Treasury for audit and enforcement purposes in excess
6 of the levels appropriated for such purposes in fiscal year
7 2021 may be expended for such purposes, including for
8 salaries, expenses, and enforcement activities, until 180
9 days after the Internal Revenue Service publishes an up-
10 dated tax gap projection pursuant to, and compliant with,
11 section 1.

12 (b) SUNSET.—The provisions of subsection (a) shall
13 not apply after the date which is one year after the date
14 of the enactment of this section.

15 **SEC. 4. RESTRICTION ON INCREASED FUNDING FOR OTHER**
16 **SPECIFIED PURPOSES.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law, no funds appropriated to the Department of
19 the Treasury in excess of the levels appropriated for speci-
20 fied purposes in fiscal year 2021 may be expended for
21 specified purposes.

22 (b) SPECIFIED PURPOSES.—For purposes of sub-
23 section (a), the term “specified purposes” means—

24 (1) the implementation of new information re-
25 porting requirements on flows of deposits and with-

drawals in individual and small-business banking accounts and other financial accounts,

(2) the targeting of United States citizens in response to the exercise by such citizens of any legally protected or recognized right guaranteed under the First Amendment to the United States Constitution,

(3) the targeting of a group for regulatory scrutiny based on the ideological beliefs of such group,

(4) the auditing of individual taxpayers with an adjusted gross income of less than \$400,000, and

(5) the hiring under an agreement pursuant to the Intragovernmental Personnel Act of 1970 (sections 3371 et seq. of title 5, United States Code) or any other authority of an authorized researcher who is not a full time Federal employee to access data subject to privacy protections afforded by section 6103 of the Internal Revenue Code of 1986.

SEC. 5. EFFICIENT USE OF EXISTING IRS RESOURCES.

For purposes of increasing enforcement actions in areas of high noncompliance and reducing the corporate audit no-change rate of the Internal Revenue Service to below 20 percent by 2023—

(1) the Secretary (or the Secretary's delegate) shall, not later than 180 days after the date of the enactment of this section—

1 (A) update the methodology that is used
2 for the selection of corporate returns for audit,
3 and

4 (B) reassign resources of the Internal Rev-
5 enue Service such that the majority of high-in-
6 come nonfilers are subject to enforcement ac-
7 tions, and

8 (2) the Comptroller General of the United
9 States shall, within one year after the date of the
10 enactment of this section, issue a comprehensive re-
11 port to Congress on information returns and data
12 collected by the Internal Revenue Service that could
13 be deployed for compliance activities but that are
14 not currently used for such activities.

15 **SEC. 6. IRS FELLOWSHIP PROGRAM.**

16 (a) ESTABLISHMENT.—Not later than September 30,
17 2022, the Commissioner of Internal Revenue (hereinafter
18 known as the “Commissioner”) after consultation with the
19 Chief Counsel of the Internal Revenue Service (hereinafter
20 known as the “Chief Counsel”), shall establish within the
21 Internal Revenue Service a fellowship program (herein-
22 after known as the “program”) to recruit private sector
23 tax experts to join the Internal Revenue Service to create
24 and participate in the audit task force established under
25 subsection (e).

1 (b) OBJECTIVE.—The Commissioner, after consulta-
 2 tion with the Chief Counsel, shall design the program in
 3 a manner such that the program—

4 (1) addresses such tax cases handled by the In-
 5 ternal Revenue Service as the Commissioner deter-
 6 mines—

7 (A) are the most complex, or

8 (B) include new and emerging issues, and

9 (2) recruits and retains outstanding and quali-
 10 fied tax experts.

11 (c) ADVERTISEMENT OF PROGRAM.—The Commis-
 12 sioner shall advertise the program in such a way as to
 13 attract mid-career tax professionals, including certified
 14 public accountants, tax attorneys, and such other tax pro-
 15 fessionals as the Commissioner determines are appro-
 16 priately qualified to handle the most complex tax cases.

17 (d) STRUCTURE.—

18 (1) IN GENERAL.—The program shall be
 19 staffed by not fewer than 30 fellows at the discretion
 20 of the Commissioner based on needs of the Internal
 21 Revenue Service and the availability of qualified can-
 22 didates.

23 (2) TERM OF SERVICE.—

24 (A) IN GENERAL.—Each fellow shall be
 25 hired for a 2-, 3-, or 4-year term of service.

1 (B) EXTENSIONS.—

2 (i) IN GENERAL.—A fellow may apply
3 for, and the Commissioner may grant, a 1-
4 year extension of the fellowship.

5 (ii) NO LIMIT ON NUMBER OF EXTEN-
6 SIONS.—There shall be no limit on the
7 number of extensions under clause (i).

8 (3) FELLOWSHIP VACANCIES.—The Commis-
9 sioner, after consultation with the Chief Counsel,
10 shall fill vacant fellowships—

11 (A) in such a manner as to ensure that the
12 program is staffed with no fewer than 15 fel-
13 lows, and

14 (B) as soon as practicable after the va-
15 cancy arises.

16 (4) HIRING AUTHORITY.—The Commissioner
17 shall have authority to permanently hire a fellow at
18 the end of the term of service for such fellow.

19 (e) TASK FORCE.—Not later than the date on which
20 the first fellowship is awarded under this section, the Com-
21 missioner shall establish a task force within the Internal
22 Revenue Service and the office of the Chief Counsel in
23 both national and regional office placements that includes
24 the fellows hired pursuant to subsection (d), the purpose
25 of which is to—

1 (1) perform audit case selection,

2 (2) educate Internal Revenue Service employees
3 on emerging issues,

4 (3) audit selected taxpayers,

5 (4) address offshore tax evasion and issues im-
6 plicating the Foreign Account Tax Compliance Act,
7 and

8 (5) identify, mentor, and train junior employees
9 from the Internal Revenue Service with respect to
10 audits.

11 (f) COMPOSITION.—The task force established under
12 subsection (e) may be composed of both—

13 (1) fellows, and

14 (2) permanent employees of the Internal Rev-
15 enue Service.

16 (g) PAY OF FELLOWS.—

17 (1) IN GENERAL.—The Secretary of the Treas-
18 ury (or the Secretary's delegate) shall determine,
19 subject to the provisions of this subsection, the pay
20 of fellows recruited under subsection (a).

21 (2) PAY SCALE.—For purposes of paragraph
22 (1), the pay of a fellow shall not be less than the
23 minimum rate payable for GS–15 of the General
24 Schedule and shall not exceed the amount of annual

1 compensation (excluding expenses) specified in sec-
2 tion 102 of title 3, United States Code.

3 (h) ADMINISTRATION OF PROGRAM.—The Secretary
4 may appoint a lead program officer to administer and ad-
5 vertise the program.

6 (i) ANNUAL REVIEW AND REPORT.—Not later than
7 1 year after the date on which the first fellowship is
8 awarded under this section, and annually thereafter, the
9 Commissioner shall submit to Congress a report con-
10 taining—

11 (1) an analysis of the effects of the program,

12 (2) an analysis of the return on investment of
13 the program, including calculations of all costs in-
14 curred and all tax revenue and penalties collected
15 due to the work of the task force,

16 (3) a description of the total number of fellows
17 who apply each year, and

18 (4) recommendations for changes to the pro-
19 gram, if any.

20 (j) RULES AND REGULATIONS.—The Commissioner,
21 with the approval of the Secretary of the Treasury (or the
22 Secretary's delegate, other than the Commissioner), shall
23 promulgate such rules and regulations as may be nec-
24 essary for the efficient administration of the program.

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