Order Code RL30101

CRS Report for Congress

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Taxpayer Bill of Rights 3: 1998 Tax Law Part 4
Summary of the New Law

Updated March 24, 1999

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ABSTRACT

This one of a series of reports designed to analyze changes in tax law made in the Taxpayer Bill of Rights 3, enacted as Title III of the IRS Restructuring and Reform Act of 1998 (P.L. 105-206). This report is intended to provide a brief summary of the major provisions of the law. It will be updated as necessary to reflect subsequent developments.

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One major component of the IRS Restructuring and Reform Act was Title III, Taxpayer Bill of Rights 3. That title contained many provisions intended to improve the position of taxpayers when engaged in conflict with I.R.S., including provisions: 1) altering the burden of proof rules in tax cases; 2) making the rules governing taxpayer proceedings more user friendly; 3) providing new avenues of relief from tax liabilities for innocent and former or separated spouses; 4) modifying interest and penalty rules to mitigate the rules in specified instances and equalizing the interest paid and received by the government and taxpayer in others; 5) enhancing the protections available to taxpayers in the audit and collection process; 6) requiring the I.R.S. to inform taxpayers of various rights, liabilities, and actions; 7) providing grants for low-income taxpayer clinics; 8) making miscellaneous changes in prior law to improve oversight, providing taxpayers with more information about the administration of tax laws, and addressing other administrative concerns raised by taxpayers; and 9) requiring studies of administration of a) interest and penalty provisions, b) confidentiality of tax return information, c) noncompliance, and d) use of rewards for information as to underpayments and fraud.

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This one of a series of reports designed to analyze changes in tax law made in the Taxpayer Bill of Rights 3, enacted as Title III of the IRS Reform and Restructuring Act of 1998 (P.L. 105-206). This report is designed to provide a brief summary of the major provisions of the law. It will be updated as necessary to reflect subsequent developments.

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Burden of Proof

Prior to the enactment of Taxpayer Bill of Rights 3, the burden of proof in tax cases was usually placed on the taxpayer. This practice derived from common law and was not statutory. In certain instances, there were statutory provisions which placed the burden of proof on the government.

Section 3001 of the bill added a new IRC § 7491 to govern the burden of proof. The general rule is that if a taxpayer introduces credible evidence on a factual issue in a court proceeding dealing with income taxes, estate and gift taxes, self-employment taxes, or generation-skipping taxes, then the IRS has the burden of proof on that issue. Credible evidence is, according to the conference report, H.Rept. 105-599, at 240-241,

> the quality of evidence which, after critical analysis, the court would find sufficient upon which to base a decision on the issue if no contrary evidence were submitted (without regard to the judicial presumption of IRS correctness). . . . The

introduction of evidence will not meet this standard if the court is not convinced that it is worthy of belief.

The taxpayer still has to comply with any substantiation requirements; maintain all records required by the Code and regulations; and cooperate with reasonable IRS requests for witnesses, information, documents, meetings, and interviews. The burden of proof is not shifted to the government if the taxpayer fails to meet those conditions. If the taxpayer is not an individual or an estate, there are maximum net worth requirements. Corporations, most trusts, and partnerships with a net worth of more than $7 million are ineligible to use this provision[1].

This new provision does not override any existing Code section which provides for a specific burden of proof. In addition, the new provision always imposes the burden on the IRS in two specific situations. First, if an item of income was reconstructed by the IRS solely through the use of statistical information on unrelated taxpayers, the IRS will have the burden of proof. Second, the IRS has the burden of production in court proceedings where an individual is liable for a penalty, addition to tax, or additional amount under the Code.

The provision applies to court proceedings arising in connection with examinations commencing after the date of enactment, July 22, 1998. If there is no IRS examination, the provision applies to court proceedings arising in connection with taxable periods or events beginning or occurring after the date of enactment.

Proceedings by Taxpayers

This subtitle contains six provisions which make it easier for taxpayers to either have their cases heard by an appropriate court or go to court to obtain restitution for wrongful acts by the IRS.

Attorneys' fees and costs

Prior to the enactment of Taxpayer Bill of Rights 3, any person who substantially prevailed in a tax case involving determination, collection, or refund of taxes, interest, or penalties could be awarded reasonable administrative costs (incurred after the earlier of the date the taxpayer received the notice of the decision of the IRS Office of Appeals or the date of the notice of deficiency) and reasonable litigation costs. Only individuals with a net worth of $2 million or less and corporations with a net worth of $7 million or less could be awarded costs. The biggest component of reasonable costs is attorneys' fees, but reimbursement for attorneys' fees was limited to $110 per hour (as adjusted for inflation). In certain cases, a court could award more than $110 per hour if the court found that a special factor justified a higher rate. In no case could reasonable costs exceed the amount actually paid or owed. Under

[1]Section 4002(b) of the Tax and Trade Relief Extension Act of 1998, P.L. 105-277, removed the net worth limitation from certain revocable trusts for the period of time that the trust would have been treated as part of the an estate if the trust had made the election under IRC § 645 to be treated as part of the estate.

prior law taxpayers could only be awarded attorneys' fees for services of attorneys, although CPAs and enrolled agents are authorized to practice before the Tax Court and the IRS. Only actual costs could be reimbursed, which meant that taxpayers could not be awarded costs for representation by pro bono attorneys.

Section 3101 made seven changes to IRC § 7430, the provision dealing with awards of costs. First, the hourly rate cap on attorney's fees was increased to $125 per hour (from $110) and will be adjusted for inflation. This is in line with the rate used in the Equal Access to Justice Act, which authorizes the award of attorney's fees in non-tax federal cases. Judges are permitted to adjust the award of attorneys' fees upward based on the difficulty of the issues presented in the case or on the local unavailability of tax expertise.

Second, administrative costs can be awarded for fees incurred after the earliest of three occasions: the two under existing law (i.e., the date of Appeals Office notice or the date of notice of deficiency), or the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent. This change should allow taxpayers to be reimbursed for almost all administrative costs.

Third, fees for the services of CPAs and enrolled agents authorized to practice before the Tax Court or before the Internal Revenue Service may be awarded to prevailing taxpayers as if those individuals were attorneys. Fourth, the statute allows a court to award appropriate attorney's fees to those who undertake pro bono representation of taxpayers, providing the fee is paid to the attorney or the attorney's employer.

Fifth, in determining whether the position of the IRS was substantially justified, the court is required to take into account whether the IRS has lost in courts of appeal for other circuits on substantially similar issues. The Committee on Ways and Means report, H.Rept. 105-364, at 59, indicated that the court may also take into account whether the United States has won in courts of appeal for other circuits. The Senate report, S.Rept. 105-174, at 47, and the conference report, H.Rept. 105-599, at 243, are silent on this issue. This provision presents courts with the decision of whether to punish the IRS for inappropriately pursuing a lost cause or whether to tolerate an IRS attempt to obtain a conflict between circuits in order to have the Supreme Court decide an issue.

Sixth, a taxpayer will be treated as having substantially prevailed if IRS wins, but the judgment is for less than a qualified offer made by the taxpayer during the qualified offer period. This provision does not apply to judgments issued pursuant to a settlement or to proceedings when the amount of the tax liability is not in issue (e.g., declaratory judgments, proceedings involving summons, actions to restrain disclosure under IRC § 6110(f)). The IRS will only be responsible for costs incurred on and after the date of the qualified offer. Seventh, a taxpayer may be awarded attorneys' fees, in addition to damages, if the taxpayer prevails in a case involving unauthorized inspection or disclosure of a tax return or tax return information under IRC § 7431.

The net worth requirements were not amended. These changes apply to costs incurred or pro bono services performed after January 18, 1999.

Damages for Illegal Collection Actions

Under prior IRC § 7433, if an IRS officer or employee *recklessly or intentionally* disregarded the law while collecting the taxpayer's taxes, the taxpayer could sue the government for the lesser of actual damages plus the costs of the suit or $1 million. Damages could be reduced if the taxpayer did not exhaust available administrative remedies or if the taxpayer did not take reasonable steps to mitigate damages. Suit had to be brought in a U.S. district court within two years of the cause of action accruing. Under prior IRC § 7426, third parties whose property was wrongfully sold or levied on by the IRS could sue the IRS for up to $1 million of damages if an IRS officer or employee *recklessly or intentionally* disregarded the law while collecting a taxpayer's taxes.

The Taxpayer Bill of Rights 3 expanded the authority to pay damages to include cases where the IRS causes a taxpayer or a third party economic damages because of *negligent* disregard of the Internal Revenue Code or regulations while collecting a taxpayer's taxes. Damages for negligence are limited to $100,000 and both taxpayers and third-parties continue to have to exhaust available administrative remedies before a court can award any damages.

In addition to damages for violations of the law in regular tax collection actions, IRC § 7433 was amended to permit a taxpayer in bankruptcy to petition the bankruptcy court to recover damages against the IRS if an officer or employee of the IRS willfully violates the automatic stay provisions or the effect of discharge provisions of the bankruptcy code or bankruptcy regulations. Damages for violations of title 11 (the bankruptcy code) can be awarded by a bankruptcy court.

These provisions apply to actions of officers and employees of the Internal Revenue Service after July 22, 1998.

Increase in Size of Cases Permitted on Small Case Tax Calendar

Under prior law, the Tax Court permitted taxpayers with amounts of tax in dispute of less than $10,000 to elect to use the small case procedures. Such an election meant that the decision of the Tax Court was final and could not be appealed. Either the IRS or the taxpayer could request that the small case procedures be discontinued any time before a final decision in the case. Taxpayer Bill of Rights 3 raised the jurisdictional amount from $10,000 to $50,000.[2]

Actions for Refund by Certain Estates which have Elected the Installment Method of Payment

The district courts of the United States and the U.S. Court of Federal Claims have jurisdiction over suits for refunds of taxes. Normally, the full amount of the taxes must be paid before filing a refund action,. Under IRC § 6166, executors of certain estates containing closely-held businesses can elect to pay the estate taxes

[2]IRC §§ 7463, 7436(c)(1), 7443A(b)(3).

attributable to the business over a 14-year period. Under prior law, courts have held that refund jurisdiction did not exist until the entire amount of estate taxes was paid. The Tax Court had jurisdiction to determine eligibility to make the IRC § 6166 election.

Section 3104 amended IRC § 7422 to provide a special rule permitting district courts and the Court of Federal Claims to have jurisdiction over an estate tax refund case even if the full amount of the estate tax liability has not been paid because of an installment payment election under IRC § 6166. In order to qualify for this special provision, the estate must meet several requirements: 1) No installments can have been accelerated. 2) All installments due before the date the suit is filed must have been paid on time. 3) There can be no case pending in the Tax Court with respect to the estate taxes due on the estate. 4) If a notice of deficiency has been issued with respect to the estate, the time for filing suit in the Tax Court must have expired. 5) No action for a declaratory judgment under IRC § 7479 can be pending in the Tax Court.

The *General Explanation of Tax Legislation Enacted in 1998* prepared by the Staff of the Joint Committee on Taxation, JCS-6-98, at 64, indicates that a taxpayer that had previously litigated its estate tax liability would not be able to use this provision under the principles of res judicata and that taxpayers are obligated to continue paying installments in full and on time during the pendency of the suit.

Once a final judgment is entered by the court, the IRS is not permitted to collect any amount disallowed by the court, and if the taxpayer has paid any amount in excess of what the court determines is currently due, the IRS is to refund that amount with interest.

The section also amends IRC § 7479 to provide that if a taxpayer files a declaratory judgment action in the Tax Court to determine an estate's eligibility to use IRC § 6166, the two-year statute of limitations for filing a refund suit is suspended during the pendency of the Tax Court action.

These provisions apply to refund actions filed after the date of enactment (July 22, 1998).

Administrative Appeal of Adverse IRS Determination of a Bond Issue's Tax-Exempt Status

This provision is not codified in the Internal Revenue Code. It directs the IRS to amend its administrative procedures to allow issuers of tax-exempt bonds to have a right to an administrative appeal to a senior officer of the IRS Office of Appeals whenever an IRS examiner proposes to revoke the tax-exempt status of a bond issue. Under prior law, there was (and is) a procedure for obtaining a declaratory judgment from the Tax Court, but there was no automatic right to an administrative appeal. This provision was effective on the date of enactment.[3]

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[3]§3105 of the Act.

Third Party Suits to Release Erroneous Lien

Prior to 1995, some courts had held that if third parties paid a tax to discharge a lien on their property, they could not sue for a refund because they were not the taxpayer against whom the tax was assessed. In 1995, in *Williams v. United States,* 514 U.S. 527 (1995), the Supreme Court held that a third party who paid another's tax under protest to remove a lien on her property could bring a refund suit, because there was no other adequate administrative or judicial remedy.

Taxpayer Bill of Rights 3 created a mechanism for third parties to have an erroneous tax lien released by amending IRC § 6325(b) to create a right of substitution of value, which allows the third party to deposit an amount of money equal to the value of the interest of the United States in the third party's property or to furnish a bond acceptable to the IRS in a similar amount. The IRS is required to refund the deposit, plus interest, or release the bond if the unsatisfied liability can be satisfied from a source other than the third party's property or if the value of the interest of the United States in the property is less than the IRS had previously determined. Under IRC § 7426(a), as amended, the third party has 120 days after obtaining the certificate of discharge (for making the payment or furnishing the bond) to bring a civil suit in a U.S. district court to determine whether the interest of the United States in the property is less than the value determined by the IRS. If the court determines that the IRS determination of value of the government's interest in the property exceeds the actual value of the government's interest, the court will order a refund of the amount deposited (plus interest from the date of payment) or a release of the bond to the extent that deposit or bond exceeds the value determined by the court.

The time that the IRS spent pursuing the wrong property does not redound to the benefit of the taxpayer. Taxpayer Bill of Rights 3 suspended the running of the statute of limitations for collection under 6502 for a period equal to the period from the date when the property of a third party is wrongfully seized or received by the IRS to the date on which a judgment under IRC § 7426 (relating to the property) becomes final, plus 30 more days. The suspension only applies to the amount of money or the value of property returned. A similar suspension applies to the period during which the IRS holds a wrongful lien on a third party's property.

Innocent Spouse and Disability Relief

The new statutory provisions provide three avenues of relief from spousal liability for taxes due on joint returns: 1) for married taxpayers filing jointly, more liberal standards for innocent spouse status than were available under prior law; 2) for those who have since separated or divorced, the opportunity to elect separate liability; and 3) for taxpayers who fail to qualify for innocent spouse or separate liability relief, discretionary authority for equitable relief.[4]

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[4]IRC § 6015.

Those who filed joint returns can seek innocent spouse status under more liberalized rules than were imposed by prior law. Under the new law such relief is available for any understatement of tax liability. Under the old law relief was available only for "substantial understatements," and those were defined by dollar amounts ($500 or a percentage of income). The prior law requirement that the understatement be attributable to "grossly erroneous" items attributable to the other spouse has also been eliminated. It is enough now that there is an understatement attributable to the other spouse. Those claiming the status must still establish that they did not know and had no reason to know of the understatement of tax, and taking into account all the facts and circumstances it must still be found unfair to hold claimant liable for the taxes due. A spouse pursuing innocent spouse status may be entitled to a refund.

The new law permits those who are divorced, legally separated, or have lived separate and apart for a year to request separation of liability. If the taxpayer filed a joint return and is now divorced, legally separated, or has lived separate and apart for at least a year prior to filing the request, she(he) will qualify for such treatment and tax liability will be determined in much the same manner as if separate returns had been filed. Special rules were included to prevent the improper use of the election. Thus, even if otherwise qualifying, a request for separate liability may be refused if IRS proves that the spouses (or former spouses) transferred assets as part of a fraudulent scheme or to avoid taxes or the payment of taxes, or if IRS proves actual knowledge that items giving rise to the deficiency and attributable to a spouse (or former spouse) were incorrect. Only the hard to attain innocent spouse exemption was available to former and separated spouses under prior law. A request for separation of liability will not generate a refund.

Equitable relief may be available for those who cannot qualify for separation of liability or innocent spouse status, including spouses from community property states who file separately. The new law permits the Secretary to make such relief available when under all the facts and circumstances it would be unfair to hold the taxpayer liable for the understatement or underpayment of a tax. This is the one remedy available for an underpayment of taxes. Under prior law, if a spouse took funds intended for taxes for his or her own use, there was no escape from joint and several liability.[5]

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[5]The conference committee report discussed the anticipated uses of this equitable authority:

> The conference agreement does not include the portion of the Senate amendment that could provide relief in situations where tax was shown on the joint return, but not paid with the return. The conferees intend that the Secretary will consider using the grant of authority to provide equitable relief in appropriate situations to avoid the inequitable treatment of spouses in such situations. For example, the conferees intend that equitable relief be available to a spouse that does not know, and had no reason to know, that funds intended for the payment of tax were instead taken by the other spouse for such other spouse's benefit.
>
> The conferees do not intend to limit the use of the Secretary's authority to provide equitable relief to situations where the tax is shown on a return but not paid. The conferees intend that such authority be used where, taking into account all the facts and circumstances, it is inequitable to hold an individual liable for all

(continued...)

The new law also permits equitable tolling of the three year statute of limitations for claiming refunds in cases where the taxpayer is unable to manage his (her) financial affairs due to severe physical or mental incapacity and where no one has been authorized to act on the taxpayer's behalf.[6]

Interest and Penalties

Changes were also made in the interest and penalty provisions of the Internal Revenue Code.[7] Two changes were made in the calculation of interest for underpayment and overpayment of taxes. Briefly, under the new law a net interest rate of 0% applies to equivalent overpayments and underpayments. The interest paid to noncorporate taxpayers on overpayments was increased. These changes eliminated some interest differentials of prior law which had resulted in taxpayers paying higher interest on underpayments than the government paid on overpayments. Prior law permitted the Secretary to extend tax deadlines for taxpayers in Presidentially declared disaster areas. Interest abatement provisions were amended to include an abatement of interest for those taxpayers for the course of the extension.[8]

Penalties for failure to pay taxes were cut in half for those who entered into and made payments under an installment agreement.[9] Under prior law payroll tax deposits were credited to the earliest period for which such a deposit was due. Penalties were assessed for failure to make required deposits at rates which increased over time up to a maximum of 15 percent. Cascading penalties could result where the taxpayer made a payment sufficient to cover a present obligation and that payment was credited, instead, to a prior obligation. Penalties would start to run on the later obligation, while the payment was credited to the earlier obligation where penalties had maxed out. Mitigating amendments were made in the penalty provision to permit the taxpayer to designate the period to which the deposit would apply and, beginning in 2002, credit the payments to the most recent period unless the taxpayer otherwise designates.[10]

A number of amendments to the interest and penalty provisions were designed to increase taxpayer awareness and encourage IRS communication with taxpayers. Accrual of penalties and interest are suspended when the IRS fails to give the taxpayer notice specifically stating the amount due and the basis for it within a one

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[5](...continued)
or part of any unpaid tax or deficiency arising from a joint return. The conferees intend that relief be available where there is both an understatement and an underpayment of tax. H. Rep. No. 105-599, 105th Cong., 2nd Sess. 254-255 (1998).

[6]IRC § 6511.

[7]IRC § 6621.

[8]IRC § 6404(h).

[9]IRC § 6651.

[10]IRC § 6656.

year time period (18 months for taxable years beginning before 2004).[11] New procedural requirements were imposed for penalties, including a requirement that a notice of penalty to the taxpayer include the name of the penalty, the Code section on which it is based, and a computation of the penalty.[12] Similarly, under the new law notices must include a statement of any interest charges, a cite to the Code section on which it is based, and a detailed computation showing the taxpayer how the interest charge was calculated.[13] Prior law required mail delivery of a written notice of a proposed 100% penalty for failure to collect, account for, and pay over any taxes as required by the Internal Revenue Code. This was amended to permit personal service as an alternative.[14]

Taxpayer Protections During Audits or Collections

This subtitle is further divided into four parts. The first of which is called "Due process in IRS collection actions." This is the heart of this subtitle, creating a right to notice and an opportunity for a hearing in most cases where the IRS is either about to file a lien or execute a levy on property of a taxpayer. The due process in collection provisions apply to collection actions begun after January 18, 1999. The second subpart is called "Examination activities." This subpart creates additional taxpayer protections during audits, the most controversial of which was allowing a confidentiality privilege to CPAs and enrolled agents, similar to the attorney-client privilege under existing law. Subpart III, entitled "Collection activities," furthers taxpayer protections when the IRS is about to levy on property, requiring the IRS to engage in more internal approval procedures and increasing the amount of property exempt from levy. Subpart IV, "Provisions relating to examination and collection activities," contains miscellaneous rules relating to the audit and collection process, including a number of provisions designed to assure that taxpayers are aware of their rights and do not unknowingly waive them. The discussion of these provisions does not follow the subparts outlined above. Instead, we have regrouped them under the following categories: Audits; Collections; and Miscellaneous Rights.

Audits

Confidentiality. Under prior law, only attorneys could claim a confidentiality privilege relating to legal advice given to their clients. Accountants and other tax practitioners did not have a privilege of confidentiality. With respect to tax advice, new IRC § 7525 extends to all federally authorized tax practitioners the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney. The privilege can only be claimed for noncriminal tax

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[11] IRC § 6604(g).

[12] IRC § 6751; upper management approval of non-computer generated penalties is also required by this new provision..

[13] IRC § 6631.

[14] IRC § 6672.

matters before the IRS or in a noncriminal tax proceeding in federal court. The privilege cannot be claimed with respect to corporations participating in tax shelters.

Deemed income. After the date of enactment, the IRS is prohibited from using financial status or economic reality examination techniques to determine whether a taxpayer has unreported income unless the IRS has a reasonable indication that there is a likelihood of unreported income. IRC § 7602(d).

Protection of Software Trade Secrets. A new IRC § 7612 provides special procedures for summonses of computer software. This provision is intended to protect the intellectual property rights of the owners and developers of tax preparation software. Under the general rule, no summons may be issued for any tax-related computer software source code unless certain requirements are met and any software or related material furnished to the IRS will be subject to a number of safeguards. Computer software can be subject to summons when three conditions are met: 1) The IRS is unable to otherwise reasonably ascertain the correctness of any item on a return from the taxpayer's books and records or from the computer software program and associated data. 2) The IRS identifies the portion of the source code needed to verify the correctness of the item. 3) The IRS determines that the need for the source code outweighs the risk of disclosure of trade secrets. The IRS will be considered to have met the first two requirements if it makes a formal request for the executable program and data to the taxpayer and to the owner of the source code and the executable code and data are not furnished within 180 days of the request.

In any court proceedings to enforce a summons for tax-related computer software source code, any party may request the court to determine whether the requirements of IRC § 7612 have been met. The court can enter any protective orders that it deems necessary to prevent the disclosure of trade secrets or other confidential information.

Regardless of what protective orders the court makes, the IRS is required to meet nine requirements: to assure that the software will only be used in connection with the examination of that taxpayer and the determination of that taxpayer's tax; to provide a list of individuals who will analyze or have access to the software; to maintain the software in a secure area at all times; to refrain from copying the software unless it is necessary for analysis; to number all copies made and certify that no other copies have been or will be made; to return all copies and delete any copies on a hard drive or other storage device at the end of the proceedings; to refrain from decompiling or disassembling the software; to provide a written agreement signed by any non-government employee who will have access to the software that the individual will not disclose such software to any person outside the tax administration process and that such individual will not participate in the development of similar software for at least two years; and to treat the software as return information for purposes of IRC § 6103.

Any person who willfully divulges software in violation of IRC § 7612 will be guilty of a felony, and subject to up to $5,000 in fines and/or 5 years of imprisonment, if convicted.

The limitation on the summons of tax-related computer software source code does not apply to inquiries into an offense connected with the administration or enforcement of the internal revenue laws; software developed by the taxpayer for its own internal use rather than commercial distribution; communications between the owner of the software source code and the taxpayer; or any tax-related computer software source code which is required to be provided under any other provision of the Internal Revenue Code.

Audit Threats. Under section 3414 of the Act, the IRS is to instruct its employees that they may not threaten to audit a company in an effort to get the company to enter into a Tip Reporting Alternative Commitment Agreement. The section is not codified in the Internal Revenue Code; nor are there associated sanctions for violations.

Notice of Contact of Third Parties. Under new IRC § 7602(c), the IRS is required to give taxpayers advance notice that it intends to contact persons other than the taxpayer in order to determine or collect the taxpayer's tax liability. The Joint Committee indicates that this notice can be made as part of a general notice provided to taxpayers. Periodically, the IRS is required to provide taxpayers with a list of persons contacted. The IRS is also to provide the list upon request of the taxpayer. If the taxpayer has authorized contact with another person, if giving such a notice would place the collection of any tax in jeopardy, if giving the notice might involve reprisal against the other person, or if the IRS is conducting a criminal investigation, then the IRS does not have to give notice to the taxpayer. This provision was effective after January 18, 1999.

Summons. Under prior law, taxpayers were entitled to notice of a summons issued to a "third-party recordkeeper." Taxpayers then had up to 20 days to file an action to quash the summons. The amendment to IRC § 7609 requires the IRS to give notice of summons issued to any third party, and permits the taxpayer to challenge any of those summonses. The IRS is not required to obtain the information through use of a summons. IRC § 7603 was amended to permit service of summons by certified or registered mail. These provisions became effective on July 22, 1998.

Collection Activities

IRS review procedures for liens and levies. Before an IRS employee can file a notice of lien or levy, section 3421 of the Restructuring Act requires review by a supervisor of the employee, and requires that appropriate disciplinary action against the employee or the supervisor be taken if the procedures are not followed. In the review process, the employee may have to certify that he or she has reviewed the taxpayer's information, verified that a balance is due, and determined that the lien or levy is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property. This provision was effective on the date of enactment (July 22, 1998), except that actions under the automated collection system do not come within these rules until after December 31, 2000. This provision was not codified in the Internal Revenue Code.

Required investigation before seizing property to be sold. Taxpayer Bill of Rights 3 codified procedures contained in the Internal Revenue Manual which require that no levy can be made on property or rights to property which is to be sold before a thorough investigation of the property is completed. The investigation is to verify the taxpayer's liability, determine that the property is worth more than the costs of seizure and sale, determine that the equity in the property is sufficient to yield net proceeds to apply to the liability, and consider alternative collection methods. New IRC § 6331(j) became effective on the date of enactment.

Internal review procedures for jeopardy or termination assessments and jeopardy levies. Under present and prior law, collections do not normally begin until 30 days after the assessment of taxes. In extraordinary circumstances, such as when a taxpayer is leaving the country or removing property from the country or in circumstances where delay may jeopardize collections, there are special procedures permitting levies to be made without giving 30 days' notice. Under IRC § 7429(a), as amended, the IRS Chief Counsel will have to review and approve, in writing, any jeopardy or termination assessments or jeopardy levies. Within five days after the assessment or levy is made, the IRS must provide the taxpayer with the reasons for taking the action. If the taxpayer chooses to challenge the action, the taxpayer can use the new due process procedures discussed below under "Levies."

Due process for liens. Under new IRC § 6320, within 5 business days after filing a lien, the IRS must give written notice to the taxpayer. The notice must be personally delivered, left at the taxpayer's dwelling or usual place of business, or sent by certified or registered mail to the taxpayer's last known address. The notice must state the amount of the tax, the taxpayer's right to request a hearing during the 30 days following the 5 days the IRS had to give notice, the administrative appeals available to the taxpayer, and procedures for getting the liens released.

If the taxpayer requests a hearing, the IRS Office of Appeals will hold a hearing. The taxpayer is limited to one hearing per taxable period for which the tax is unpaid. In order to insure impartiality, the hearing officer must not have been involved in trying to determine or collect the taxpayer's unpaid taxes before the first hearing. The taxpayer can waive this requirement.

If practicable, the hearing on the lien should be combined with a hearing relating to a levy on the same property. Similar rules as to the conduct of the hearing, procedures following the hearing, and the suspension of collections and the statute of limitations as described below under "Levies" apply to the hearings on liens.

Due process for levies. Under new IRC § 6330, the IRS must give at least 30 days notice before levying on property or rights to property of a taxpayer. The notice must be personally delivered, left at the taxpayer's dwelling or usual place of business, or sent by certified or registered mail to the taxpayer's last known address. The notice must state the amount of the tax, the taxpayer's right to request a hearing during the 30 days before the proposed levy, the proposed actions by the IRS and the rights of the taxpayer in connection with those actions, the administrative appeals available to the taxpayer, any actions which might prevent levy on the property (including installment agreements), and provisions and procedures relating to redemption of property and release of liens. The IRS is only required to give one notice per taxable period to which the unpaid tax relates.

If the taxpayer requests a hearing, the IRS Office of Appeals will hold a hearing. The taxpayer is limited to one hearing per taxable period and has the right to an impartial hearing officer who has had no prior involvement with the taxpayer's unpaid tax. The taxpayer may waive this requirement.

The hearing officer must investigate and verify that the IRS followed applicable law and administrative procedures. At the hearing the taxpayer may offer appropriate spousal defenses, challenge the appropriateness of collection actions, and offer collection alternatives, such as posting a bond, substitution of assets, installment agreements, or offers in compromise. If the taxpayer has not had a prior opportunity to challenge the underlying tax liability, that issue may also be raised.

The hearing officer must consider the IRS verification, any defenses raised, and whether the proposed collection action balances the need for efficient collection with the legitimate concern that the collection action be no more intrusive than necessary. If the taxpayer had a prior hearing relating to filing a lien, the taxpayer may not raise issues previously considered at another hearing, if the taxpayer participated meaningfully in the prior hearing.

Within 30 days after the IRS Office of Appeals hearing, the taxpayer may appeal to the Tax Court or to a district court of the United States (if the Tax Court does not have jurisdiction). If a court determines that the appeal was made to the wrong court, the person has 30 days after the court determination to file an appeal with the correct court. The IRS Office of Appeals is required to retain jurisdiction of any determination made under this section, even after the case is appealed to the Tax Court or U.S. District Court, for purposes of hearings on collection actions proposed or taken, and to determine whether any changed circumstances might affect the determination.

If a hearing is requested, the proposed levy actions and the running of any period of limitations relating to collection after assessment, criminal prosecution, or other suits under IRC § § 6502, 6531, or 6532 will be suspended for the period during which the hearing and appeals are pending. The suspension period will not expire before 90 days after the day of the final determination in such hearing. If the underlying tax liability is not at issue, and the court determines that the IRS has shown good cause not to suspend the levy, a levy may be taken while an appeal is pending.

There are two cases where the collection may proceed before the taxpayer is afforded a hearing: (1) if the IRS has determined that collection of the tax is in jeopardy, and (2) if a levy is served on a state to collect a federal tax liability from a state tax refund.

These changes apply to collection actions begun after January 18, 1999.

Levy prohibited during suit for refund. Under present and prior law, if a taxpayer contested a tax in the Tax Court, the IRS was barred from collecting the tax during the pendency of the proceedings. However, under prior law the IRS was permitted to collect unpaid tax liabilities during the pendency of a refund suit in a U.S. district court or the Court of Federal Claims. Although full payment is generally required before a refund suit can be entertained, some taxes, such as employment taxes, are divisible. The taxpayer can pay the tax for the applicable period and sue for a refund. IRC § 6331 was amended to require that the IRS refrain from collecting taxes during the pendency of a refund suit as long as jeopardy does not exist and the taxpayer had not waived this right in writing. The statute of limitations on collection will be stayed for the period during which the IRS is barred from collecting the taxes. This provision applies to unpaid taxes attributable to taxable periods beginning after 1998.

Increase in exemption amounts. The basic amounts that are exempt from levy under IRC § 6334 were increased. Under prior law, $2,500 of fuel, provisions, furniture, and personal effects were exempt from levy, as well as $1,250 of books and tools necessary for the trade, business, or profession of the taxpayer. These amounts were increased to $6,250 for the personal effects, and $3,125 for books and tools. The amounts were indexed for inflation. These increases became effective on the date of enactment.

Protection for residences and business property. In addition to the basic amounts, the Restructuring Act also amended IRC § 6334(a)(13) to increase protection of residences and certain business property from levies. As of the date of enactment, in small deficiency cases, where the amount of the levy does not exceed $5,000, the IRS cannot seize any real property used as a residence by the taxpayer and any nonrental real property of the taxpayer used by another individual as a residence (e.g., former spouse, parents, children of the taxpayer). In other cases, normally the IRS will be barred from seizing the principal residence of the taxpayer and tangible personal property or real property (other than rental property) used in the trade or business of the taxpayer. However, levy on principal residences will be allowed if a U.S. District Court judge or magistrate approves in writing the levy on a principal residence; and levy on business assets will be allowed if a district director or assistant district director of the IRS personally approves in writing the levy of such property or if the collection of the tax is determined to be in jeopardy. In order to approve a levy on business assets, the IRS district director or assistant director must find that the taxpayer's other assets subject to collection are insufficient to pay the taxes due, plus the expenses of the proceedings.

Wage levies. For levies on wages imposed after December 31, 1999, the IRS is to release any wage levy as soon as practicable after the IRS agrees with the taxpayer that the tax is uncollectible.[15]

Waiver of early withdrawal tax for levies on IRAs or retirement funds. Under current law, employer-sponsored retirement plans and IRAs are not exempt from levies to pay back taxes. If the IRS levies on such accounts, not only does the beneficiary lose the money in the account, but the amount withdrawn is included in income and subject to a 10% early withdrawal penalty tax. The Restructuring Act provides for waiver of the 10% early withdrawal penalty tax when the IRS levies on retirement funds or IRAs, effective after 1999.[16]

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[15]IRC § 6343(e).

[16]IRC § 72(t)(2)(A)(vii)

Increase in certain superpriority amounts. Although a federal tax lien attaches to all the property of taxpayer if the taxpayer fails to pay the assessed tax liability after notice and demand, the tax lien is not valid against certain "superpriority" interests of third parties. The Code limits two of these by a dollar amount. The revision increased the protection for purchasers of property at a casual sale from $250 to $1,000 worth of property. It increased the protection for mechanic's lienholders from $1,000 to $5,000 worth of home improvements performed on owner-occupied personal residences. These amounts were indexed for inflation. The superpriority for passbook loans was rewritten to refer to "deposit-secured loans" in order to reflect the fact that such accounts are not necessarily evidenced by passbooks under current banking practices. These amendments took effect on the date of enactment. IRC § 6323.

Miscellaneous Rights

Sales of levied property.

Minimum bid. The Restructuring Act prohibits the IRS from selling seized property for less than the minimum bid price. Sales of property for less than the minimum bid price would constitute an unauthorized collection action, and the affected person could sue for civil damages. This became effective upon enactment.[17]

Accountings. The IRS has always been required to keep records of all sales of real property, including expenses of the sale and application of the proceeds. Under the Restructuring Act, effective for seizures after enactment, the IRS must provide the taxpayer with a written accounting of all sales of seized property. The accounting must show the amount credited to the taxpayer's account as well as the information the IRS was previously required to keep in connection with real property.[18]

Uniform asset disposal mechanism. Section 3443 of the Restructuring Act gives the IRS two years after enactment to implement a uniform asset disposal mechanism for sales of seized property. The mechanism is to be designed to remove participation of revenue officers in the sales of seized property, and the Secretary is directed to consider using outsourcing.

Statutes of Limitation. The statute of limitations for assessment of a tax is generally three years from the date the return is filed. The statute of limitations on collection is generally 10 years from the date of assessment. Under prior law, either statute of limitations could be extended by agreement between the taxpayer and the IRS.

Assessment. Taxpayer Bill of Rights 3 requires that the IRS inform taxpayers that they do not have to agree to extend the statute of limitations on assessment and that they can limit the extension to particular issues or to a particular

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[17]IRC § 6335(e)(1)(A) (i)

[18]IRC § 6340.

period of time each time the IRS requests an extension of the statute of limitations on assessment. The amendment to IRC § 6501(c) applies to requests to extend the statute of limitations made after 1999.

Collection. Taxpayer Bill of Rights 3 eliminates the IRS right to request an extension of the 10-year statute on collections except in the case of installment agreements. Under the amended IRC § 6502(a) levy must be made or a court proceeding to collect must be begun within 10 years of assessment, or within 90 days after the collection period agreed on when entering an installment agreement, or prior to the expiration of an agreed on collection period when there is a release of levy under IRC § 6343 after the 10-year period. These amendments apply to requests to extend the statute of limitations after 1999. If a request is made prior to the end of 1999, and the taxpayer agreed to the extension, the extension will expire on the latest of the last day of the 10-year period, December 31, 2002, or if there is an installment agreement, 90 days after the agreed to extension.

Offers in Compromise. Under prior law, the IRS had authority to compromise any civil or criminal tax case prior to reference to the Department of Justice for prosecution or defense. IRC § 7122. Records of compromises and the reasons for agreeing to them had to be made where the amount assessed were $50,000 or more. The remainder of the rules about offers in compromise were contained in the Internal Revenue Manual.

Employee Guidelines. The new rules require the IRS to issue guidelines for its employees to determine when an offer in compromise is adequate and should be accepted. The guidelines are to contain schedules of allowances designed to permit taxpayers entering an offer in compromise to have an adequate means of providing basic living expenses, but the IRS employees are to use discretion to determine, based on the facts and circumstances of each taxpayer, whether the use of the schedules is appropriate. The schedules are not to be used if their use would result in the taxpayer not having adequate means to provide for basic living expenses. The guidelines are to provide that offers in compromise from low income taxpayers cannot be rejected solely on the basis of the amount of the offer. If a taxpayer proposes an offer in compromise based on doubt as to the liability of the taxpayer, the IRS cannot reject the offer simply because the IRS cannot locate the taxpayer's return for verification of the liability; in addition, the IRS cannot demand a financial statement in those cases where the compromise is based on doubt as to liability.

Statement of Taxpayer Rights. Besides the guidelines for employees, the IRS is to develop a statement in simple, nontechnical terms, which explains the rights of a taxpayer and the obligations of the IRS regarding offers in compromise. At a minimum the statement must advise taxpayers why they should notify the IRS if their address or marital status changes; must advise taxpayer couples that if the offer in compromise is terminated due to the actions of one spouse or former spouse, the complying spouse can get the offer reinstated; and must advise taxpayers that they can appeal the rejection of an offer in compromise to the IRS Office of Appeals.

Additional Rights. There are additional protections while an offer is pending. First, IRC § 6331 was amended to provide that no levy can be made while an offer in compromise is pending; during the 30 days after an offer in compromise is rejected; and, if the rejection is appealed within 30 days, during the time the appeal is pending. Second, the IRS must create an independent internal procedure to review any proposed rejection of an offer in compromise before the rejection is communicated to the taxpayer. Third, the taxpayer has a right to appeal any rejection to the IRS Office of Appeals.

All of these changes, except for the suspension of collection by levy, became effective on the date of enactment, July 22, 1998. The suspension of collection by levy will apply to offers in compromise pending on or made after December 31, 1999.

Notice of Tax Court Filing Deadline. After 1998, notices of deficiency sent to taxpayers must state the last date on which they can file a petition in the Tax Court. Any filing by the date contained in the notice is to be treated as timely filed.[19] This should eliminate one of the major hurdles to Tax Court jurisdiction of tax disputes. Many cases have been thrown out each year because the petitioner or the petitioner's lawyer miscalculated the last date for filing.

Right to Refund. Under prior law, the IRS was prohibited from making an assessment or collecting a deficiency during the period during which a taxpayer could appeal to the Tax Court, and, if the case was filed in the Tax Court, during the pendency of the Tax Court action. Although collection actions could be enjoined, there was no authority for ordering a refund of any amounts collected during that period. In addition, if the Tax Court determined that the taxpayer had made an overpayment and a refund was due, there was no authority for the Tax Court to order a refund of the part of the overpayment that was not contested on appeal.

Since the date of enactment, the proper court, including the Tax Court, has had jurisdiction to order a refund, as well as to enjoin prohibited collection actions. In addition, the IRS was given authority to refund or credit overpayments determined by the Tax Court to the extent that the overpayment is not contested on appeal.[20]

Appeals Resolution Procedures. New IRC § 7123 directs the IRS to establish procedures under which a taxpayer or the IRS Office of Appeals may request non-binding mediation on any issue unresolved at the end of the appeals procedures or unsuccessful attempts to enter a closing agreement or a compromise of tax liability. The IRS was also directed to establish a pilot program under which a taxpayer and the Office of Appeals could jointly request binding arbitration on any issued unresolved in the same circumstances as the request for non-binding mediation. Under prior IRS procedures, mediation was only available when more than $10 million was in dispute. The statutory provisions do not have a minimum dollar amount. Two non-codified directives require the IRS to ensure that an appeals officer is regularly available in each state and that the IRS consider using video conferencing for appeals conferences with taxpayers in rural or remote areas.

Fair Tax Collection Practices. Taxpayer Bill of Rights 3 makes certain provisions of the Fair Debt Collection Practices Act applicable to the IRS. Under

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[19]IRC § 6213(a).

[20]IRC §§ 6213(a) and 6512(b).

new IRC § 6304, IRS employees may not call a taxpayer at inconvenient times (generally outside the hours of 8 a.m. to 9 p.m. local time) or places; may not contact the taxpayer directly if the IRS knows the taxpayer is represented by an authorized tax practitioner (unless the practitioner fails to respond within a reasonable period of time); and may not call at the taxpayer's place of employment if there is reason to believe such contact is prohibited by the taxpayer's employer. Any of these requirements may be waived with the taxpayer's consent. In addition, IRS employees may not try to harass, oppress, or abuse any taxpayer by using or threatening to use violence or other criminal means to harm another person's body, reputation, or property; using obscene or profane language; ringing the telephone repeatedly or calling a person repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number; or placing calls without identifying the caller. Violations of these prohibitions would be considered an unauthorized collection action under IRC § 7433 for which taxpayers could be awarded civil damages of up to $100,000 for negligent violations and up to $1,000,000 for reckless or intentional violations. These provisions became effective on the date of enactment.

Right to Installment Agreement. Since the date of enactment, the IRS has been required to enter an installment agreement with any taxpayer meeting these requirements: 1) the tax liability (not including interest and penalties) is no more than $10,000; 2) for the past five years, the taxpayer (and spouse, if a joint liability) has not failed to file a tax return, or failed to pay any tax required to be shown on a return, or entered an installment agreement; 3) the taxpayer submits any required financial information; 4) the IRS determines that the taxpayer is financially unable to pay the liability in full when due; 5) the liability can be paid in full within 3 years; and 6) the taxpayer agrees to continue to comply with the tax laws and the installment payment agreement while the agreement is in effect. [21]

Requests to Waive Rights to Sue. No officer or employee of the United States is permitted to request that a taxpayer waive a right to bring a civil action against the United States or its officers or employees for any action taken in connection with internal revenue laws. There are three exceptions to this prohibition. The taxpayer may waive this right, if the waiver is knowing and voluntary. The request can be made in person when the taxpayer's attorney or other tax practitioner is present. The request can be made in writing to the taxpayer's attorney or other tax practitioner. This provision was not codified.[22]

Notices, Disclosures and Explanations

A major focus of legislative reform was to improve communication from the IRS to taxpayers and concomitantly increase taxpayer knowledge and understanding of IRS tax collection responsibilities and procedures. A number of amendments to the Code were designed to improve the communications flow. These included uncodified provisions requiring the IRS to explain in IRS Publication Number 1 (*Your Rights as*

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[21] IRC § 6159(c).

[22] § 3468 of the Act.

a Taxpayer) 1) the rule of joint and several liability on joint returns, 2) taxpayer's rights to representation and the presence of their representative in interviews with IRS, and 3) the procedures and criteria for selecting taxpayers for examination.[23] Other uncodified provisions require that an explanation of the conditions under which tax return information may be disclosed outside the IRS be incorporated in all form instruction booklets; that IRS prepare an explanation of the appeals and collection process, including assistance available to taxpayers from the Taxpayer Advocate, for inclusion in the first letter of proposed deficiency; and that IRS provide every taxpayer making payments under an installment agreement an annual statement showing the initial balance, payments made and ending balance.[24]

Several provisions of the Internal Revenue Code were also amended to increase or improve communication with taxpayers. Section 6402 (relating to the authority to make credits or refunds) was amended by adding a subsection requiring the Secretary to provide the taxpayer with an explanation of the reason for denying a refund claim. Section 6231 of the IRC was amended to require the Secretary to notify the members of a partnership whenever the Secretary uses his authority to select a tax matters partner. Under §6110 of the IRC written determinations of IRS are to be made available for public inspection. Prior law defined written determinations to include rulings, determination letters and technical advice memorandum and provided for taxpayer participation in the redaction of documents to protect taxpayer privacy. The law was amended to broaden the definition of written determinations to include Chief Counsel Advice, extending the procedural rules of this section to those documents. In *Tax Analysts v. Internal Revenue Service,* 117 F.3d 607 (D.C. Cir. 1997), the court held that redacted versions of these documents were available for public inspection under the Freedom of Information Act. Congress amended this provision to include such documents to insure that documents pertaining to a particular case received uniform procedural treatment, including the opportunity for taxpayer involvement in the redaction process in order to protect privacy interests.

Low Income Taxpayer Clinics

The Act authorizes up to $6 million in matching grants to low income taxpayer clinics, with no clinic eligible to receive more than $100,000 per year. Eligible clinics include clinical programs at law, business, and accounting schools, and tax-exempt organizations. The clinics must not charge more than a nominal fee, must represent low income taxpayers in controversies with the IRS, or must operate a program to inform individuals for whom English is a second language about their rights and responsibilities under the tax laws.[25]

[23] §§ 3501, 3502, 3503 of the Act; §3501 also requires the Service to provide procedures to alert taxpayers to their liabilities on joint returns on all appropriate forms and instructions..

[24] §§ 3508, 3504, 3506 of the Act.

[25] IRC § 7526.

Other Provisions

A wide variety of miscellaneous provisions were enacted which imposed new responsibilities on IRS. Among the uncodified provisions were the following: 1) a requirement that IRS make an annual report to Congress cataloging the number, nature and disposition of taxpayer complaints of IRS employee misconduct[26]; 2) a provision to permit taxpayers to make checks or money orders payable to the United States Treasury for taxes due (under prior law and regulation such checks were required to be made payable to the Internal Revenue Service)[27]; 3) a prohibition against the use of pseudonyms by IRS employees except where there is adequate justification (e.g., personal safety) and prior approval by the employees' supervisor[28]; 4) a prohibition against the use of "illegal tax protester" designations by IRS and permission to use a "nonfiler" designation[29]; and 5) a requirement that IRS office addresses and phone numbers be listed in local telephone directories[30].

Section 3705 of the Act contains a number of provision designed to improve taxpayer contacts with IRS and it's employees. The law provides that all manually generated correspondence from IRS contain the name, telephone number and employee identification number of an IRS employee the taxpayer can contact with regard to the matter. All other correspondence is required to include a prominently displayed IRS phone number the taxpayer can call about the matter. IRS employees are required to provide their names and employee identification numbers when contact taxpayers in person or by phone. It also requires that, when practicable and advantageous to the taxpayer, one IRS employee should be assigned to handle a case from beginning to completion. Finally, where appropriate, IRS helplines are required 1) to include answers to questions in Spanish and 2) to include an option to allow taxpayers to talk to an employee during regular business hours.

The confidentiality provisions of the Internal Revenue Code were amended 1) to specifically permit disclosure by whistleblowers of taxpayer returns and return information to the Ways and Means, Finance and Joint Tax Committees, 2) to permit disclosure to the National Archives and Records Administration upon request by the U.S. Archivist for the purpose of appraisal of the records for retention or destruction, and 3) to permit disclosure to state tax officials seeking an offset for state taxes due from federal tax overpayments.[31]

Section 6402 of the Internal Revenue Code, relating to Authority to make credits or refunds, was amended to authorize the use of federal tax overpayments for the

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[26] § 3701 of the Act.

[27] § 3703 of the Act.

[28] § 3706 of the Act.

[29] § 3707 of the Act.

[30] § 3709 of the Act.

[31] IRC § 6103(f),(l).

purpose of offsetting past due, legally enforceable, state income tax obligations.[32] Under prior law the identifying number required of individual income tax preparers was their social security number. This provision was modified to permit use of alternative identifying numbers.[33] Provisions governing information to be furnished to IRS and students by educational institutions as part of the education credit program were modified to include grants to students processed through the educational institution.[34] Finally, the general rule making authority given the Secretary was amended to specifically include the time and manner of making elections, unless otherwise provided for by statute.[35]

Studies

The last subtitle requires the preparation of four sets of studies.

Penalties and Interest

The Joint Committee on Taxation and the Treasury are each to prepare a study of how the IRS administers and implements the interest and penalty provisions in the Internal Revenue Code. Each study is to make recommendations for legislation or administrative changes which might simplify administration or reduce taxpayer burden. The studies are due to the tax-writing committees by July 22, 1999.[36]

Confidentiality of Taxpayer Return Information

The Joint Committee on Taxation and the Treasury are each to prepare a study on the scope and use of provisions relating to taxpayer confidentiality. Each study is to look at six topics: 1) existing protections for taxpayer privacy; 2) any need of third parties to use tax return information; 3) the possibility of inducing greater levels of taxpayer compliance by publishing the names of taxpayers who fail to file tax returns; 4) the interrelationship between the taxpayer confidentiality provisions and other federal laws, such as the Freedom of Information Act; 5) the impact on taxpayer privacy of sharing income tax return information with state and local tax officials in order to enforce non-income tax laws; 6) whether there should be greater public disclosure of information about tax exempt organizations. These studies are to be presented to the Congress by January 22, 2000.[37]

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[32] IRC § 6402(e).

[33] IRC § 6109(a).

[34] IRC § 6050S(b)(2)(C)(ii).

[35] IRC § 7805(d).

[36] § 3801 of the Act.

[37] § 3802 of the Act.

Noncompliance

Treasury and the Internal Revenue Service, in consultation with the Joint Committee on Taxation, are to study noncompliance with tax laws, both willful noncompliance and noncompliance due to complexity or other factors. Their findings are to be reported to the Congress by July 22, 1999.[38]

Payments for Informants

Treasury is to study and report to Congress by July 22, 1999, how the current system of rewards for informants works and to recommend legislation or administrative changes relating to the program and its application.[39]

[38] § 3803 of the Act.

[39] § 3804 of the Act.