



*U.S. House of Representatives*

## **COMMITTEE ON WAYS AND MEANS**

### ***DIVISION B—TAXPAYER FIRST ACT OF 2018***

#### **Summary**

### **Title I—Putting Taxpayers First**

#### **Subtitle A – Independent Appeals Process**

##### **Sec. 1001. Establishment of Internal Revenue Service Independent Office of Appeals.**

The provision codifies the requirement of an independent administrative appeals function at the IRS. The provision seeks to ensure that generally all taxpayers are able to access the administrative review process, allowing for their cases to be heard by an independent decision maker. The provision also provides for notice and protest procedures as well as additional Congressional oversight for taxpayers withheld from the administrative review process. The provision codifies the official responsible for overseeing the Independent Office of Appeals as the Chief of Appeals. The appointed official is required to have experience in a broad range of Federal tax law controversies and management of large service organizations. The provision also ensures that staff working in the Independent Office of Appeals do not receive advice from the Office of Chief Counsel from IRS employees working on the case prior to its referral for administrative review. Further, the provision provides taxpayers access to “the case against them,” if requested.

#### **Subtitle B – Improved Service**

##### **Sec. 1101. Comprehensive customer service strategy.**

Under this provision, within one year of enactment, the IRS is required to develop and submit to Congress a comprehensive customer service strategy. The strategy must address how the IRS intends to provide assistance to taxpayers, in part by ensuring adequate customer service training for its own employees and taking into account best practices from the private sector. The strategy must also establish metrics and benchmarks for measuring the IRS’s success in implementing this strategy.

### **Sec. 1102. IRS Free File Program.**

The IRS currently works with electronic tax preparation services to provide free tax preparation software and electronically fillable forms. This program is known as the IRS Free File program. Generally, there is no fee to taxpayers for using the Free File program provided they meet certain income thresholds. Specific eligibility criteria vary based on requirements established by participating tax preparation software providers. This provision codifies the existing Free File Program and requires the IRS to continue to work with private stakeholders to maintain, improve, and expand the program. The provision also requires Free File program members to continue to provide basic fillable forms to all taxpayers.

### **Sec. 1103. Low-income exception for payments otherwise required in connection with a submission of an offer-in-compromise.**

The IRS is authorized to enter into an offer-in-compromise (OIC) agreement with a taxpayer to settle a tax debt at a lower amount than what the taxpayer generally owes. Generally, when proposing an OIC to the IRS, the taxpayer must pay an application fee and provide an initial non-refundable lump sum payment. The IRS has the authority to waive these payments. Generally, the IRS does not require taxpayers certified as low-income, defined as those with incomes below 250 percent of the federal poverty level, to include the application fee and initial payment. This provision codifies the existing low-income exception with respect to any user fee or upfront partial payment imposed with respect to any offer-in-compromise.

## **Subtitle C—Sensible Enforcement**

### **Sec. 1201. Internal Revenue Service seizure requirements with respect to structuring transactions.**

The Bank Secrecy Act (BSA) mandates reporting and recordkeeping requirements, including the reporting of currency transactions exceeding \$10,000, to assist Federal law enforcement and regulatory agencies in the detection, monitoring, and tracing of certain monetary transactions. To circumvent these reporting requirements, individuals may structure cash transactions to fall below the \$10,000 reporting threshold (also known as “structuring”). Structuring can be used to conceal illegal cash-generating activities, such as the selling of narcotics, and to conceal income earned legally in order to evade the payment of taxes. Structuring (or attempts to structure) for the purpose of evading the reporting and record-keeping requirements is subject to both civil and criminal penalties. Under this provision, the IRS must now show probable cause that funds believed to have been structured to avoid BSA reporting requirements are derived from an illegal source or are connected to other criminal activity. This provision also provides important procedural protections for individuals, including a post-seizure hearing within 30 days of the seizure.

**Sec. 1202. Exclusion of interest received in action to recover property seized by the Internal Revenue Service based on structuring transaction.**

Related to Section 1201, under this provision, if a court determines the government should return funds and interest to an individual whose funds were seized by the IRS based on allegations of structuring, the interest will be exempt from income tax.

**Sec. 1203. Clarification of equitable relief from joint liability.**

In general, married couples who file tax returns jointly are both responsible for the entire tax liability that should be reported on the return. However, under certain circumstances, the Tax Code provides for relief for certain innocent spouses from joint liability. This provision clarifies that the Tax Court has jurisdiction to redetermine equitable claims for relief from joint liability. It also clarifies that the standard of review for such relief by the Tax Court shall be conducted on a de novo basis, meaning that the Tax Court would take a fresh look at the case without taking previous decisions into account. The review would be based on the administrative record and any newly discovered or previously unavailable evidence. The provision also clarifies the time frame in which claims for equitable relief can be brought.

**Sec. 1204. Modification of procedures for issuance of third-party summons.**

Under current law, the IRS is authorized to issue a John Doe summons to require production of information in the course of an examination. The summons is as part of an investigation of a specific, unidentified person or ascertainable group or class of persons. When the existence of a possibly non-compliant taxpayer is known but his identity remains unknown – as in the case of holders of offshore bank accounts, or investors in particular abusive transactions – the IRS is able to issue a John Doe summons to learn the identity of the taxpayer but must first meet significantly greater statutory requirements to do so. This provision seeks to clarify the IRS’s authority to issue John Doe summons by emphasizing that the IRS must narrowly tailor such a summons to seek only information that pertains to the failure (or potential failure) of the person or group of persons to comply with Federal tax law. This provision is consistent with the current IRS manual, which states that a John Doe summons may not be used for the purposes of a “fishing expedition.”

**Sec. 1205. Private debt collection and special compliance personnel program**

Congress directed the IRS to establish a program that refers certain inactive tax receivable accounts to private collection agencies. The statute specifies certain types of cases that are not eligible for referral to private collection agencies; however, the IRS does not currently have a process in place to prevent low-income individuals from being referred for collection. This provision creates two additional categories of cases not eligible for referral to private collection agencies: (1) taxpayers with an adjusted gross income under 200 percent of the applicable poverty level or (2) taxpayers whose income is substantially derived from supplemental security income benefits or disability insurance benefit payments. The provision also alters the definition of inactive tax receivables that can be assigned to private debt collection agencies to those in

which more than 2 years has passed since assessment of the tax debt and limits installments agreements between the taxpayer and private debt collection agencies to seven years.

**Sec. 1206. Reform of notice of contact of third parties.**

During the course of an audit, the IRS is required to notify a taxpayer prior to initiating third party contacts. Testimony before the Ways and Means Oversight Subcommittee revealed that this notice has become routine at the beginning of any given audit and no longer serves to provide actual notice of impending contact with third parties. This provision requires that the IRS provide notice to taxpayers before contacting third parties, including friends, neighbors, and clients, closer in time to such contacts being made. Specifically, the provision requires that the taxpayer be notified at least 45 days prior to the period of contact, which may not be greater than one year. Notice is required only if there is a present intent to contact third parties at the time such notice is given.

**Sec. 1207. Modification of authority to issue designated summons.**

The IRS may issue designated or related summonses to examine the tax liability of certain corporations. A designated summons is an administrative summons that is issued to a large corporation (or person to whom the corporation has transferred the requested books and records) with respect to one or more taxable periods currently under examination in the coordinated industry case program and meets three conditions. This provision requires that prior to issuing a designated summons, the Commissioner of the relevant operating division of the IRS and the Chief Counsel must review and provide written approval of the summons. The written approval must state facts establishing that the IRS had previously made reasonable requests for the information and must be attached to the summons. The provision also requires that the IRS certify in any subsequent judicial proceedings reasonable request for the information were made.

**Sec. 1208. Limitation on access of non-Internal Revenue Service employees to returns and return information.**

Generally, returns and return information are confidential and cannot be disclosed unless authorized by the Code. Under the Treasury regulations, a person authorized to receive returns and return information as a tax administration contractor may receive and examine books, papers, records, or other data produced to comply with the summons, and, in the presence and under the guidance of an IRS officer or employee, participate fully in the interview of a witness summoned by the IRS to provide testimony under oath. However, recent Treasury guidance has proposed to narrow this authorization significantly to exclude non-government attorneys from receiving summoned books, papers, records or other data or from participating in the interview of a witness summoned by the IRS to provide testimony under oath. This provision prohibits a person, other than an officer or employee of the IRS, from examining books, records, and witness testimony as part of an examination other than for the sole purpose of serving as an expert. This provision also ensures that only IRS employees or the Office of Chief Counsel are able to question a witness under oath.

## **Subtitle D—Organizational Modernization**

### **Sec. 1301. Office of the National Taxpayer Advocate.**

The Office of the Taxpayer Advocate is expected to represent taxpayer interests independently in disputes with the IRS. The National Taxpayer Advocate (NTA) reports directly to the Commissioner of the Internal Revenue Service. Taxpayer Advocate Directives (TADs) allows the NTA to identify systemic problems and issue directives mandating changes to IRS tax administration or other processes unless the IRS Commissioner or Deputy Commissioner modifies or rescinds the order. The NTA’s authority to issue TADs is pursuant to a delegation of authority from the Commissioner. The NTA is required to submit reports directly to the House Committee on Ways and Means and the Senate Committee on Finance. This provision strengthens TADs by requiring a response from the Commissioner or Deputy Commissioner and clarifying the time period required for such response. This provision also requires the NTA to report to Congress any TADs not honored by the IRS, reduces the number of “most serious problems” included in the NTA Annual Report to Congress from “more than 20” to ten, requires the IRS to provide statistical support to the NTA upon request and requires the NTA to coordinate research efforts with the Treasury Inspector General for Tax Administration (TIGTA). The provision also clarifies the salary for the NTA.

### **Sec. 1302. Modernization of Internal Revenue Service organizational structure.**

Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) directed the Commissioner of Internal Revenue to restructure the IRS by eliminating or substantially modifying the three-tier geographic structure (national, regional, and district) in place at the time and replacing it with an organizational structure that features operating units serving particular groups of taxpayers with similar needs. This provision allows the IRS to consider what a modern structure for the agency might look like, to develop a plan for its implementation, and to submit such a plan to Congress prior to making any organizational changes. The plan must consider how the IRS will prioritize taxpayer services, streamline and simplify its structure, better position itself to combat ongoing cyber threats, and take into account the Congressional priorities laid out in our package. The timely submission of the proposal to Congress would then remove the requirement of an organizational structure that features operating units serving particular groups of taxpayers with similar needs one year after the submission.

## **Subtitle E—Other Provisions**

### **Sec. 1401. Return preparation programs for applicable taxpayers.**

The Internal Revenue Service (IRS), through its Volunteer Income Tax Assistance (VITA) Program, currently partners with IRS-certified volunteer organizations to provide free tax return filing assistance to low-income populations, persons with disabilities, taxpayers with limited English proficiency, and other underserved communities. VITA originated from the IRS Reform Act of 1969. The Consolidated Appropriations Act of 2008 included funding for a demonstration program providing matching grants to some VITA organizations to help maintain

and expand VITA programs. Matching grant funding for VITA has been included every subsequent year; however, this matching grant program has never been formally authorized. This bill provides certainty for VITA organizations and taxpayers by permanently authorizing the VITA matching grant program to support the maintenance and expansion of VITA programs. The IRS may allocate from otherwise appropriated funds up to \$30 million per year in matching grants to qualified entities for the development, expansion, or continuation of qualified tax return preparation programs assisting applicable taxpayers and members of underserved populations. Additionally, the provision allows the IRS to use mass communications and other means to promote the benefits and encourage the use of the program.

**Sec. 1402. Provision of information regarding low-income taxpayer clinics.**

Low Income Taxpayer Clinics (LITC) assist low-income taxpayers with representation in controversies with the IRS. This provision clarifies that IRS employees are able to provide taxpayers in need of such assistance with information about the availability of and eligibility requirements for LITCs. IRS employees also are allowed to provide location and contact information for LITCs.

**Sec. 1403. Notice from IRS regarding closure of taxpayer assistance centers.**

This provision requires the IRS to provide public notice, including by non-electronic means, to affected taxpayers 90 days prior to the closure of a Taxpayer Assistance Center. The notice must include information on alternative forms of assistance available for impacted taxpayers and the date of the proposed closure. The IRS must also notify Congress of the closure and provide the reasons for doing so.

**Sec. 1404. Rules for seizure and sale of perishable goods restricted to only perishable goods.**

Under current law, the IRS may seize and sell a taxpayer's property on the same day if the IRS deems it to be "perishable." Perishable goods are defined as those that (1) are liable to perish, (2) become greatly reduced in price or value by keeping, or (3) cannot be kept without great expense to the IRS. Deeming property as "perishable" also allows the IRS to forgo minimum bid requirements, which can lead to seized property being sold for significantly less than a normal auction would allow. This provision seeks to modify the definition of "perishable" by limiting the IRS's ability to deem seized property as "perishable" to only those that are liable to perish.

**Sec. 1405. Whistleblower reforms.**

Currently the IRS is unable to provide whistleblowers with status updates regarding what the IRS has done with the information provided by the whistleblower. This provision allows the IRS to exchange information with whistleblowers on the status of their case and stage of the investigation. The provision also adds anti-retaliation whistleblower protections for employees and establishes a process to file a complaint for whistleblowers allege reprisal.

### **Sec. 1406. Customer service information.**

The provision requires the IRS to provide the following information over the telephone, while taxpayers are on hold with the IRS call center: information about common tax scams, direction to the taxpayer on where and how to report such activity, and tips on how to protect against identity theft and tax scams.

### **Sec. 1407. Misdirected tax refund deposits.**

Currently the IRS does not have procedures in place for addressing taxpayers whose refund was sent by electronic transfer to the incorrect account. This provision allows the Secretary of Treasury to prescribe regulations to establish procedures for taxpayers who report such instances and requires the IRS to coordinate with financial institutions to identify, recover, and deliver the refund to the correct account of the taxpayer.

## **Title II – 21<sup>st</sup> Century IRS**

### **Subtitle A—Cybersecurity and Identity Protection**

#### **Sec. 2001. Public-private partnership to address identity theft refund fraud.**

This provision codifies recent efforts of the IRS, through the Security Summit, to foster a partnership aimed at combatting identity theft tax refund fraud (IDTTRF) with public and private stakeholders. Congress would like to ensure that these proactive efforts to protect taxpayers and combat IDTTRF continue to be a priority of the IRS.

#### **Sec. 2002. Recommendations of Electronic Tax Administration Advisory Committee regarding identity theft refund fraud.**

ETAAC's charter has since been amended to address the growing threat of IDTTRF, allowing it to work more closely with the Security Summit to address this issue. ETAAC's more recent annual reports to Congress have also provided meaningful recommendations on how to combat IDTTRF. This provision seeks to codify the changes made to ETAAC's charter by requiring ETAAC to study (including through providing organized public forums) and make recommendations to the Secretary regarding methods to prevent IDTTRF.

#### **Sec. 2003. Information sharing and analysis center.**

Under this provision, the IRS is encouraged to participate in an IDTTRF information sharing and analysis center (ISAC) with state and private sector partners. The IRS has participated in the IDTTRF ISAC pilot, which tested the idea of more proactively and efficiently sharing information between ISAC members to quickly identify and prevent IDTTRF schemes. However, there are current statutory requirements, which limit the IRS's ability to share tax return information with its partners that is critical to combating these threats. This provision provides for the limited sharing of specified return information, such as IP address and

the speed at which the return was filed, with paid return preparers who are members of the ISAC. The proposal also requires the Secretary to develop metrics for measuring the success of the ISAC in detecting and preventing IDTTRF.

**Sec. 2004. Compliance by contractors with confidentiality safeguards.**

This provision puts in place additional confidentiality safeguards on return information provided to contractors. Under this provision, the IRS will not be able to provide taxpayer information to any contractors or other agents of a Federal, state, or local agency unless the contractor has safeguards in place to protect the confidentiality of return information and agrees to conduct on-site compliance reviews every three years. Under this proposal, the Federal, state, or local agency is required to submit a report of its findings to the IRS and certify annually that such contractors and other agents are in compliance with the requirements to safeguard the confidentiality of Federal returns and return information.

**Sec. 2005. Report on electronic payments.**

This provision requires the Secretary of the Treasury, in coordination with the Bureau of Fiscal Service and the Internal Revenue Service, to submit a report to Congress outlining how the government can utilize new payment platforms to increase the use of electronic funds transfers for tax refunds. The report should also consider the impact on taxpayers who do not have access to financial accounts or institutions.

**Sec. 2006. Identity protection personal identification numbers.**

This provision requires the IRS to set up a program where any concerned taxpayer—regardless of their state of residence—can request an Identity Protection Personal Identification Number (IP PIN) to use in filing his or her return. The bill expands voluntary access to IP PINs nationwide over five years until taxpayers in all 50 states have access to the program.

**Sec. 2007. Single point of contact for tax-related identity theft victims.**

This provision establishes a single point of contact within the IRS for any taxpayer who is a victim of identity theft. The single point of contact will be responsible for tracking the taxpayer's case to completion and coordinating with other units to resolve the taxpayer's issues as quickly as possible. This provision addresses concerns over the lack of continuity of assistance when taxpayers are victims of tax related identity theft.

**Sec. 2008. Notification of suspected identity theft.**

If the Secretary determines that there has been or may have been an unauthorized use of a taxpayer's identity, the provision requires the Secretary to, without jeopardizing an investigation relating to tax administration, notify the taxpayer of such termination, and provide: (1) instructions to the taxpayer about filing a report with law enforcement; (2) the forms the taxpayer must submit to allow investigating law enforcement officials to access the taxpayer's personal information; (2) steps that victims can take to protect themselves from harm caused by the



unauthorized use; and (4) an offer of IRS victim protection measures such as an IP PIN that allows returns to be filed securely.

**Sec. 2009. Guidelines for stolen identity refund fraud cases.**

This provision requires that the IRS, in consultation with the National Taxpayer Advocate, develop and implement publicly available casework guidelines for the handling of refund fraud cases that would have the effect of reducing the administrative burdens on victims of identity theft.

**Sec. 2010. Increased penalty for improper disclosure or use of information by preparers of returns.**

This provision increases the civil penalty on the unauthorized disclosure or use of information by tax return preparers from \$250 to \$1,000 for cases in which the disclosure or use is made in connection with a crime relating to the misappropriation of another person's taxpayer identity ("taxpayer identity theft"). The provision also increases the calendar year limitation from \$10,000 to \$50,000. The calendar year limitation is applied separately with respect to disclosures or uses made in connection with taxpayer identity theft. The provision also increases the criminal penalty for knowing or reckless conduct to \$100,000 in the case of disclosures or uses in connection with taxpayer identity theft.

## **Subtitle B—Development of Information Technology**

**Sec. 2101. Management of Internal Revenue Service information technology.**

This provision seeks to strengthen IRS accountability for the billions of taxpayer dollars annually spent on developing and maintaining IRS information technology (IT) systems. This provision codifies the position of the IRS's Chief Information Officer (CIO) and establishes clear roles and responsibilities for the CIO. The provision also mandates that the IRS develop and implement an IT strategic plan, in alignment with the overall goals of the IRS, to ensure adequate consideration and planning for the IRS's long-term IT needs. The IRS also must have a third party independently verify and validate its plans for the completion of the Customer Account Data Engine 2 and Enterprise Case Management system(s) within a year of enactment.

**Sec. 2102. Development of online accounts and portals.**

Similar to the goal of increasing electronic filing established in RRA 98, this provision establishes a new goal for the IRS to develop robust and secure online accounts for taxpayers and their preparers by 2023. While the IRS currently provides limited online assistance through its web applications, it continues to lag behind in developing online options for those taxpayers who wish to use them. This provision is intended to supplement, not replace, other taxpayer services provided by phone or in person by the IRS. It also mandates that the IRS develop a process for the secure acceptance of tax forms and supporting documentation in an electronic format.

**Sec. 2103. Internet platform for Form 1099 filings.**

This provision requires the IRS to develop an internet portal that would facilitate taxpayers filing Forms 1099 with the IRS. The internet portal is to be modeled after a Social Security Administration (SSA) system that allows individuals to file Forms W-2 with SSA.

**Sec. 2104. Streamlined critical pay authority for information technology positions.**

The provision reinstates streamlined critical pay authority at the IRS for positions in its information technology operations that are necessary to ensure the functionality of such operations. Such authority is effective on the date of the enactment and ends on September 30, 2023.

The provision reinstates the ability to provide payment for recruitment, retention, relocation incentives, and relocation expenses for positions in information technology operations at the IRS. It also reinstates the ability to pay performance bonuses for senior executives who have program management responsibility over the information technology operations at the IRS. Such authority is effective on the date of enactment and ends on September 30, 2023.

## **Subtitle C—Modernization of Consent-based Income Verification System**

**Sec. 2201. Disclosure of taxpayer information for third-party income verification.**

The Income Verification Express Service (IVES) is a program run by the IRS, which is used to verify a taxpayer's income. The program is most often used when a taxpayer is applying for a mortgage and the mortgage lender is seeking to verify the taxpayer's income. This provision authorizes the IRS to develop an automated system to receive these forms in lieu of the current system, which relies on the forms to be sent to the IRS via secure fax. Additionally, during the two-year period beginning on the first day of the sixth calendar month, the provision authorizes the IRS to charge a separate user fee over a two-year period on all IVES requests to fund the development of the new system.

**Sec. 2202. Limit redisclosures and uses of consent-based disclosures of tax return information.**

This provision limits tax return information redisclosures by the taxpayer's designee to only those redisclosures to which the taxpayer has expressly consented.

## **Subtitle D—Expanded Use of Electronic Systems**

**Sec. 2301. Electronic filing of returns.**

The provision relaxes the current restrictions on the authority of the Secretary to mandate electronic filing based on the number of returns required to be filed by a taxpayer in a given taxable period. First, it phases in a reduction in the threshold requirement that taxpayers have an obligation to file a specified number of returns and statements during a calendar year in order to

be subject to a regulatory mandate. That threshold is reduced from 250 to 100 for calendar year 2020, from 100 to 10 for calendar year 2021 and for calendar years thereafter. Notwithstanding these thresholds, in the case of a partnership the applicable number is 200 in the case of calendar year 2018 and 150 in the case of calendar year 2019.

The provision authorizes the Secretary to waive the requirement that a Federal income tax return prepared by a specified tax return preparer be filed electronically if a tax return preparer applies for a waiver and demonstrates that the inability to file electronically is due to lack of internet availability (other than dial-up or satellite service) in the geographic location in which the return preparation business is operated.

**Sec. 2302. Uniform standards for the use of electronic signatures for disclosure authorizations to, and other authorizations of, practitioners.**

This provision requires the IRS to develop standards and other guidelines that would allow for electronic signatures to be used to request taxpayer return information for the purposes of disclosures to a practitioner or to execute a power of attorney.

**Sec. 2303. Payment of taxes by debit and credit cards.**

Under current law, the IRS cannot accept credit and debit card payments for taxes directly due to a restriction on the payment of fees charged by the card issuer. As a result, the IRS must use a third-party processor to accept credit and debit card payments. This provision allows the IRS to directly accept credit and debit card payments for taxes, provided that the fee is paid by the taxpayer.

**Sec. 2304. Requirement that electronically prepared paper returns include scannable code.**

The provision requires that taxpayers who prepare their returns electronically, but print and file the returns on paper must print their returns with a scannable code. A scannable code enables the IRS to convert paper-filed tax returns into an electronic format using scanning technology.

**Sec. 2305. Authentication of users of electronic services accounts.**

The provision requires the IRS to verify the identity of any individual opening an e-Services account before he or she is able to use such services.

## **Subtitle E—Other Provisions**

**Sec. 2401. Repeal of provision regarding certain tax compliance procedures and reports.**

The provision repeals section 2004 of the IRS Restructuring and Reform Act of 1998, which, under present law, taxpayers are generally required to calculate their own tax liabilities and submit returns showing their calculations.

**Sec. 2402. Comprehensive training strategy.**

The provision requires the Commissioner of the IRS to submit to Congress a written report providing a comprehensive training strategy for employees of the IRS.

## **Title III—Miscellaneous Provisions**

### **Subtitle A—Reform of Laws Governing Internal Revenue Service Employees**

**Sec. 3001. Electronic record retention.**

Federal executive agencies are required to maintain and preserve Federal records, whether in paper or electronic form, and protect against unauthorized removal of such records. There are no Code provisions governing IRS record retention, management, or transfer of paper or electronic records. The provision codifies the joint directive regarding the management of government records previously issued by the Office of Management and Budget and the National Archives and Records Administration. The provision requires that permanent and temporary e-mail records of the IRS be retained in an appropriate electronic system that supports records management and litigation requirements by December 31, 2019. In addition, the provision requires that by December 31, 2019, the IRS Commissioner of Internal Revenue and the Chief Counsel for the IRS maintain e-mail records of all principal officers and specified employees for no less than 15 years beginning on the date the record was generated.

**Sec. 3002. Prohibition on rehiring any employee of the Internal Revenue Service who was involuntarily separated from service for misconduct.**

This provision prohibits the IRS from rehiring any individual who was previously employed by the IRS but was removed for misconduct or whose employment was terminated for cause.

**Sec. 3003. Notification of unauthorized inspection or disclosure of returns and return information.**

Currently, the IRS is required to notify a taxpayer of an unauthorized inspection or disclosure as soon as practicable after any person is criminally charged by indictment or information for unlawful inspection or disclosure. The provision requires the IRS to notify a taxpayer if the IRS or a Federal or State agency proposes an administrative disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The provision requires the notice to include the date of the

unauthorized inspection or disclosure and the rights of the taxpayer as a result of such administrative determination.

## **Subtitle B—Provisions Relating to Exempt Organizations Sec. 3101. Mandatory e-filing by exempt organizations.**

### **Sec. 3101. Mandatory e-filing by exempt organizations.**

Most tax-exempt organizations are required to file an annual information return or notice in the Form 990 series. The provision extends the requirement to e-file to all tax-exempt organizations required to file statements or returns in the Form 990 series or Form 8872 (“Political Organization Report of Contributions and Expenditures”). The provision also requires that the IRS make the information provided on the forms available to the public, consistent with the disclosure rules of section 6104 of the Code, in a machine-readable format as soon as practicable.

### **Sec. 3102. Notice required before revocation of tax exempt status for failure to file return.**

Exempt organizations are required to file an annual information return, Form 990 (Return of Organization Exempt From Income Tax). If an organization fails to file a required Form 990-series return or notice for three consecutive years, the organization’s tax-exempt status is automatically revoked. The provision requires that the IRS provide notice to an organization that fails to file a Form 990-series return or notice for two consecutive years. The notice must state that the IRS has no record of having received such a return or notice from the organization for two consecutive years and inform the organization about the revocation of the organization’s tax-exempt status that will occur if the organization fails to file such a return or notice by the due date for the next such return or notice. The notice must also contain information about how to comply with the annual information return and notice requirements.

## **Subtitle C—Tax Court**

### **Sec. 3301. Disqualification of judge or magistrate judge of the Tax Court.**

Any justice, judge or magistrate judge of the United States is obligated to disqualify oneself if his or her impartiality might be reasonably questioned during a proceeding. Disqualification may also occur in the following circumstances: 1) the judge has a personal bias or knowledge of disputed evidentiary facts relating to the proceeding; 2) the judge served as a lawyer in private practice or as a material witness in the matter in controversy; 3) the judge served in governmental employment as a counsel, adviser, or material witness relating to the proceeding; 4) the judge has a financial interest in the subject or is a party to the proceeding, or any other interest that could be significantly affected by the outcome of the proceeding; 5) the judge, his or her spouse, or a person of third degree relationship is a party to the proceeding, has an interest in the outcome, or is likely to be a material witness in the proceeding. These grounds for disqualification do not explicitly apply to Tax Court judges or magistrate judges. This provision makes Tax Court judges subject to the same grounds for disqualification as judges of other

Federal courts in order to ensure public confidence in the independence and impartiality of Tax Court judges.

**Sec. 3302. Opinions and judgments.**

The Tax Court is required to issue a report on any proceedings it establishes and to enter a decision for the final decree effectuating the outcome in each case. This will be the decision of the Tax Court. This provision applies the judicial terminology of “opinion” and “judgment” used by federal courts to the Tax Court. The provision replaces the non-judicial terms of “report” and “decision” with “opinion” and “judgment,” respectively. This provision does so in order to provide consistent use of terms within the Code and clarity for taxpayers.

**Sec. 3303. Title of special trial judge changed to magistrate judge of the Tax Court.**

The chief judge of the Tax Court may appoint special trial judges to handle certain cases. Special trial judges serve for an indefinite term. Special trial judges receive a salary of 90 percent of the salary of a Tax Court judge. Special trial judges do not have authority to impose punishment in the case of contempt of the authority of the Tax Court. This provision renames “special trial judges” to “magistrate judges.” The provision provides clarity for taxpayers and brings the Tax Court terminology in line with other federal courts.

**Sec. 3304. Repeal of deadwood related to Board of Tax Appeals.**

The Code makes references to the Board of Tax Appeals, the Tax Court’s predecessor, before the establishment of the Tax Court in 1969 under Article I of the Constitution. Congress established the United States Tax Court under Article I of the Constitution. Therefore, references to the Tax Court’s predecessor, the Board of Tax Appeals, are obsolete. This provision deletes the references to the Board of Tax Appeals.