



H.R. 5444: Taxpayer First Act (Rep. Jenkins, R-KS)

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FLOOR SCHEDULE:

The bill is expected to be considered April 18, 2018, under a [closed rule](#).

The rule provides that engrossment of H.R. 5444, the Clerk shall add the text of several other IRS reform bills being considered by the House this week to the end of H.R. 5444: [H.R. 2901, the Volunteer Income Tax Assistance Permanence Act of 2017](#), [H.R. 5437 To require the Secretary of the Treasury to establish a program for the issuance of identity protection personal identification numbers](#), [H.R. 5438 To amend the Internal Revenue Code of 1986 to allow officers and employees of the Department of the Treasury to provide to taxpayers information regarding low-income taxpayer clinics](#), [H.R. 5439- To provide for a single point of contact at the Internal Revenue Service for the taxpayers who are victims of tax-related identity theft](#), [H.R. 5440 To require notice from the Secretary of the Treasury in the case of any closure of a Taxpayer Assistance Center](#), [H.R. 5443 - To amend the Internal Revenue Code of 1986 to require electronic filing of the annual returns of exempt organizations and provide for making such returns available for public inspection](#), [H.R. 5445 21st Century IRS Act](#), and [H.R. 5446 To amend the Internal Revenue Code of 1986 to restrict the immediate sale of seized](#). The rule would further provide that upon the addition to the engrossment of H.R. 5444, the bills that are added shall be laid on the table.

The rule would also provide for consideration of H.R. 5445, the 21st Century IRS Act.

TOPLINE SUMMARY:

[H.R. 5444](#) would make a number of changes to the Internal Revenue Service, with the goal of improving customer service and enforcement procedures.

COST:

According to the [Congressional Budget Office](#), "The staff of the Joint Committee on Taxation (JCT) estimates that enacting the bill would reduce revenues by \$102 million over the 2019-2028 period, and CBO estimates that enacting H.R. 5444 would decrease direct spending by \$51 million over the same period. On net, H.R. 5444 would increase deficits by \$52 million over the period. CBO has not completed an estimate of the bill's costs that are subject to annual appropriation."

CONSERVATIVE VIEWS:

Many [conservatives](#) believe that the IRS needs to be reformed in order to be more accountable and responsive to the American people it serves.

- **Expand the Size and Scope of the Federal Government?** No.

- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** The bill would require the Administrator of the IRS to submit a comprehensive redesign plan to Congress.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Independent Appeals Process: The bill would establish a new Independent Office of Appeals. The Office would be charged with resolving tax controversies without litigation in a way that is fair and impartial, promotes a consistent application of voluntary compliance with tax laws, and enhances public confidence in the IRS. The Chief of Appeals would be appointed by the IRS Administrator.

The bill would require that taxpayers with adjusted gross income below \$400,000 or entities with gross receipts below \$5 million and have a case referred to Independent Appeals have access to the nonprivileged portions of casefiles on record at least ten days prior to a scheduled conference.

Comprehensive Customer Service Strategy: The bill would require the IRS to develop a comprehensive customer strategy within one year.

Free File: The bill would require the IRS to continue to operate the Free File program for the lowest 70 percent of taxpayers as well as a basic online electronic fillable forms utility for all taxpayers.

Offer in Compromise: An offer in compromise is a settlement between the IRS and a taxpayer that allows the tax liability to be satisfied by paying less than the amount owed. The IRS charges a fee for processing an offer in compromise, which is waived for those below 250 percent of the poverty level. The bill would codify the regulations that established the fee exemption for those below 250 percent of the poverty level.

Structuring: The Bank Secrecy Act requires reporting on all cash transactions of \$10,000 or more. Attempting to evade the reporting requirement by engaging in multiple transactions is called structuring. The law allows the IRS to seize assets involved in structuring transactions.

The bill would limit the IRS's ability to seize assets related to structuring only if the assets were derived from an illegal source or the transactions were structured for the purpose of concealing other criminal laws. The bill would establish a post seizure hearing process to allow persons who have a property interest in seized assets to have the seizure reviewed by a court of competent jurisdiction.

Exclusion of Interest Received Due to Wrongful Seizure: Under current law, if the IRS wrongly seizes property and then pays interest to the victim, the interest counts as taxable income. The bill would exclude interest received in connection with property seized by the IRS related to allegations of structuring.

Equitable Relief from Joint Liability: The bill would provide uniform treatment of Tax Court review of claims for equitable relief from joint liability.

Third Party Summons: The bill would prohibit the Secretary of the Treasury from issuing a "John Doe summons" to attempt to discover the identity of a possibly non-compliant taxpayer unless the information sought is narrowly tailored to pertain to the potential failure of the person(s) to comply with a specific, identified provision of the tax code.

Exemption from Private Tax Debt Collection: As an offset to pay for the increased spending in the [Fixing America's Surface Transportation \(FAST\) Act of 2015](#), the IRS was required to use private debt collection agencies to help collect certain back taxes.

The bill would exempt back taxes that are identified as being from an individual with adjusted gross income below 250 percent of the federal poverty line from being subject to private debt collection. The exemption would be applicable beginning 180 days after enactment and ending on December 31, 2019.

Contact of Third Parties: The bill would require that, prior to the IRS contacting third parties regarding the determination or collection of tax liability of a taxpayer, the IRS provide notice to the taxpayer that third parties may be contacted during a specified period for up to one year. The bill would require such notice to be provided at least 45 days prior to the specified period. The bill permits multiple notices to a taxpayer.

Designated Summons: According to the [Committee Report](#), “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. First, it must be reviewed and approved by the Division Commissioner and Division Counsel of the relevant operating division or organization with jurisdiction over the return. Second, it must be issued at least 60 days before the expiration of the assessment limitations period (as extended). Finally, it must clearly state that it is a “designated summons.” No more than one designated summons may be issued with respect to a return under examination.” Since 1995, only three designated summons have been issued.

The bill would require a designated summons to be preceded by a review and approved by the head of an IRS operating division and the division counsel which includes facts establishing that the IRS had made reasonable requests for information.

Limitation of Access to Return Information to IRS Contractors: The bill would prohibit access of confidential taxpayer information obtained by a summons to IRS contractors (such as outside attorneys retained by the IRS), except when the contractor requires such information for the sole purpose of providing expert evaluation and assistance to the IRS. The bill would further prohibit a non-IRS employee or officer from questioning a witness whose testimony was obtained by summons under oath.

IRS Commissioner Title: The bill would change the title of the Commissioner of the IRS to the Administrator of the IRS.

National Taxpayer Advocate: The bill would require the Administrator of the IRS to ensure compliance of a taxpayer Assistance Directive issued by the National Taxpayer Advocate within 90 days. The bill would also strike a provision in current law that allows the Secretary of the Treasury to determine the salary of the National Taxpayer Advocate, and would fix the salary at the same level as the highest rate of pay for the Senior Executive Service.

IRS Oversight Board: The bill would repeal the IRS Oversight Board. According to the [Committee Report](#), “Although well intended, the Committee believes that the Board does not provide the IRS with meaningful guidance and direction as the Board was intended to do upon its creation.”

IRS Organization: The bill would require the Administrator of the IRS to submit a redesign plan to Congress by September 30, 2020. The bill establishes priorities for the redesign plan, including that the plan shall: (1) ensure the successful implementation of the priorities specified by Congress in this bill; (2) prioritize taxpayer services to ensure that all taxpayers easily and readily receive the assistance they need; (3) streamline the structure of the agency including minimizing the duplication of services and responsibilities; (4) best position the IRS to combat cybersecurity and other threats to the IRS; and (5) address whether the Criminal Division of the IRS should report directly to the Administrator.

Disqualification of Tax Court Judges: The bill would align the grounds for disqualifying a Tax Court judge with the requirements of other federal judges.

Tax Court Terminology: The bill would align the terminology used to describe the opinions and judgements of Tax Courts with those used by other courts. The bill would also update the title of a special trial judge of the Tax Court to be a magistrate judge of the Tax Court.

COMMITTEE ACTION:

H.R. 5444 was introduced on April 10, 2018, and referred to the Committee on Ways and Means and the Committee on Financial Services. The Committee on Ways and Means marked up and reported the bill on [April 11, 2018](#), by voice vote. The Committee on Ways and Means and the Committee on Financial Services had an [exchange of letters](#) waiving the Committee on Financial Services right to sequential referral of the bill.

The Committee on Ways and Means has held a number of [oversight](#) hearings on the IRS.

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

“Congress has the power to enact this legislation pursuant to the following: Article I, Section 8: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.”

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