

119TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to treat tax penalties as assessable in the same manner as taxes, to provide notice requirements for certain penalties, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WHITEHOUSE (for himself and Mr. CASSIDY) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to treat tax penalties as assessable in the same manner as taxes, to provide notice requirements for certain penalties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness in Foreign
5 Filing Act”.

1 **SEC. 2. TREATMENT OF TAX PENALTIES.**

2 (a) TREATMENT OF PENALTIES AS TAXES.—Section
3 6671(a) of the Internal Revenue Code of 1986 is amend-
4 ed—

5 (1) by striking “The penalties and liabilities
6 provided by this subchapter” and inserting the fol-
7 lowing:

8 “(1) IN GENERAL.—Any penalties provided by
9 this title, including the penalties and liabilities pro-
10 vided by this subchapter,”

11 (2) by striking “the penalties and liabilities pro-
12 vided by this subchapter.” and inserting “the pen-
13 alties provided by this title, including the penalties
14 and liabilities provided by this subchapter.”, and

15 (3) by adding at the end the following new
16 paragraph:

17 “(2) EXCEPTION.—Paragraph (1) shall not
18 apply to any penalty not provided by this subchapter
19 if such penalty is a penalty for which a civil or
20 criminal action is prescribed as the method of collec-
21 tion or has been consistently treated by the Sec-
22 retary before the date of the enactment of this para-
23 graph as such a penalty.”.

24 (b) NOTICE REQUIREMENT FOR CERTAIN PEN-
25 ALTIES.—

1 (1) IN GENERAL.—Subchapter C of chapter 68
2 of the Internal Revenue Code of 1986 is amended by
3 adding at the end the following new section:

4 **“SEC. 6752. PRELIMINARY NOTICE AND RIGHT OF REVIEW**
5 **FOR COVERED PENALTIES.**

6 “(a) NOTICE.—

7 “(1) IN GENERAL.—No covered penalty shall be
8 assessed unless the Secretary provides a notice to
9 the taxpayer in writing by mail to an address as de-
10 termined under section 6212(b) that contains the
11 following information:

12 “(A) The covered penalty proposed to be
13 assessed.

14 “(B) The taxable years or periods involved.

15 “(C) The basis for the proposed penalty.

16 “(D) Information about the right of the
17 taxpayer to request review as provided in sub-
18 section (b).

19 “(2) TIMING OF NOTICE.—The mailing of the
20 notice described in paragraph (1) shall precede any
21 notice and demand of any covered penalty by at
22 least 60 days (120 days in the case of a notice ad-
23 dressed to a taxpayer outside the United States).

24 “(b) RIGHT TO A REVIEW.—Within 60 days (120
25 days in the case of a notice sent to a taxpayer outside

1 the United States) of the mailing of the notice described
2 in subsection (a), the taxpayer may request a review of
3 the proposed penalty by the Internal Revenue Service
4 Independent Office of Appeals.

5 “(c) SUSPENSION OF ASSESSMENT AND COLLEC-
6 TION.—

7 “(1) IN GENERAL.—A covered penalty may not
8 be assessed, demanded, or collected before—

9 “(A) the expiration of the period provided
10 under subsection (b), or

11 “(B) in any case in which the taxpayer re-
12 quests a review under subsection (b), the date
13 a final determination is issued in such review.

14 “(2) STATUTE OF LIMITATIONS.—If a notice
15 described in subsection (a) with respect to any cov-
16 ered penalty is mailed before the expiration of the
17 period provided by section 6501 for the assessment
18 of such penalty (determined without regard to this
19 paragraph), the running of such period shall be sus-
20 pended for the period during which assessment is
21 prohibited under this section and for 30 days there-
22 after.

23 “(d) COVERED PENALTY.—For purposes of this sec-
24 tion, the term ‘covered penalty’ means any penalty im-

1 posed under section 6038(b)(1), 6038A(d)(1), 6038B(c),
2 6038C(c), 6038D(d)(1), 6039F(c)(1)(B), or 6677.

3 “(e) EXCEPTION FOR JEOPARDY.—This subsection
4 shall not apply if the Secretary finds that the collection
5 of the penalty is in jeopardy.

6 “(f) REGULATIONS.—The Secretary shall prescribe
7 such regulations or other guidance as may be necessary
8 or appropriate to carry out this section, including regula-
9 tions or other guidance relating to—

10 “(1) procedures for issuing notices under sub-
11 section (a),

12 “(2) the time and manner for presenting appro-
13 priate defenses under subsection (b)(2), and

14 “(3) establishing simplified reviews for cases in
15 which the penalty amount at issue does not exceed
16 a designated dollar threshold.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
18 tions for subchapter C of chapter 68 of such Code
19 is amended by adding at the end the following new
20 item:

“Sec. 6752. Preliminary notice and right of review for covered penalties.”.

21 (c) INTERPRETIVE RULES.—

22 (1) TAXPAYER RIGHTS.—Nothing in the
23 amendments made by this section shall be construed
24 to create any limitation on the rights of a tax-
25 payer—

1 (A) under subchapter C or D of chapter 64
2 of the Internal Revenue Code of 1986, or

3 (B) to pursue refund litigation with respect
4 to the assessment or imposition of any penalty
5 imposed under such Code.

6 (2) NO INFERENCE.—Nothing in the amend-
7 ments made by this section shall be construed to
8 create any inference with respect to the treatment of
9 any covered penalty (as defined in section 6752 of
10 the Internal Revenue Code of 1986, as added by this
11 section) before the date of the enactment of this Act.

12 **SEC. 3. REPEAL OF DUE DATE REQUIREMENTS FOR CER-**
13 **TAIN INFORMATION RETURNS RELATING TO**
14 **FOREIGN TRUSTS.**

15 (a) IN GENERAL.—Section 2006(b) of the Surface
16 Transportation and Veterans Health Care Choice Im-
17 provement Act of 2015 is amended by striking paragraphs
18 (9) and (10).

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to returns for taxable years begin-
21 ning after December 31, 2026.