

112TH CONGRESS  
2D SESSION

# H. R. 4375

To provide a taxpayer bill of rights for small businesses.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2012

Mr. SAM JOHNSON of Texas introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To provide a taxpayer bill of rights for small businesses.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Small Business Taxpayer Bill of Rights Act of 2012”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Modification of standards for awarding of costs and certain fees.
- Sec. 3. Civil damages allowed for reckless or intentional disregard of internal revenue laws.
- Sec. 4. Modifications relating to certain offenses by officers and employees in connection with revenue laws.
- Sec. 5. Modifications relating to civil damages for unauthorized inspection or disclosure of returns and return information.
- Sec. 6. Interest abatement reviews.
- Sec. 7. Ban on ex parte discussions.

- Sec. 8. Alternative dispute resolution procedures.  
 Sec. 9. Extension of time for contesting IRS levy.  
 Sec. 10. Waiver of installment agreement fee.  
 Sec. 11. Suspension of running of period for filing petition of spousal relief and collection cases.  
 Sec. 12. Venue for appeal of spousal relief and collection cases.  
 Sec. 13. Increase in monetary penalties for certain unauthorized disclosures of information.  
 Sec. 14. De novo tax court review of claims for equitable innocent spouse relief.  
 Sec. 15. Ban on raising new issues on appeal.

1 **SEC. 2. MODIFICATION OF STANDARDS FOR AWARDING OF**  
 2 **COSTS AND CERTAIN FEES.**

3 (a) **SMALL BUSINESSES ELIGIBLE WITHOUT RE-**  
 4 **GARD TO NET WORTH.**—Subparagraph (D) of section  
 5 7430(c)(4) of the Internal Revenue Code of 1986 is  
 6 amended by striking “and” at the end of clause (i), by  
 7 striking the period at the end of clause (ii) and inserting  
 8 “and”, and by adding at the end the following new clause:

9 “(iii) in the case of an eligible small  
 10 business, the net worth limitation in clause  
 11 (ii) of such section shall not apply.”.

12 (b) **ELIGIBLE SMALL BUSINESS.**—Paragraph (4) of  
 13 section 7430(c) of the Internal Revenue Code of 1986 is  
 14 amended by adding at the end the following new subpara-  
 15 graph:

16 “(F) **ELIGIBLE SMALL BUSINESS.**—For  
 17 purposes of subparagraph (D)(iii), the term ‘eli-  
 18 gible small business’ means, with respect to any  
 19 proceeding commenced in a taxable year—

1                   “(i) a corporation the stock of which  
2                   is not publicly traded,  
3                   “(ii) a partnership, or  
4                   “(iii) a sole proprietorship,  
5                   if the average annual gross receipts of such cor-  
6                   poration, partnership, or sole proprietorship for  
7                   the 3-taxable-year period preceding such taxable  
8                   year does not exceed \$50,000,000. For pur-  
9                   poses of applying the test under the preceding  
10                  sentence, rules similar to the rules of para-  
11                  graphs (2) and (3) of section 448(c) shall  
12                  apply.”.

13           (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to proceedings commenced after  
15 the date of the enactment of this Act.

16 **SEC. 3. CIVIL DAMAGES ALLOWED FOR RECKLESS OR IN-**  
17 **TENTIONAL DISREGARD OF INTERNAL REV-**  
18 **ENUE LAWS.**

19           (a) INCREASE IN AMOUNT OF DAMAGES.—Section  
20 7433(b) of the Internal Revenue Code of 1986 is amended  
21 by striking “\$1,000,000 (\$100,000, in the case of neg-  
22 ligence)” and inserting “\$3,000,000 (\$300,000, in the  
23 case of negligence)”.

1 (b) EXTENSION OF TIME TO BRING ACTION.—Sec-  
2 tion 7433(d)(3) of the Internal Revenue Code of 1986 is  
3 amended by striking “2 years” and inserting “5 years”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to actions of employees of the In-  
6 ternal Revenue Service after the date of the enactment  
7 of this Act.

8 **SEC. 4. MODIFICATIONS RELATING TO CERTAIN OFFENSES**  
9 **BY OFFICERS AND EMPLOYEES IN CONNEC-**  
10 **TION WITH REVENUE LAWS.**

11 (a) INCREASE IN PENALTY.—Section 7214 of the In-  
12 ternal Revenue Code of 1986 is amended—

13 (1) by striking “\$10,000” in subsection (a) and  
14 inserting “\$25,000”, and

15 (2) by striking “\$5,000” in subsection (b) and  
16 inserting “\$10,000”.

17 (b) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on the date of the enactment  
19 of this Act.

20 **SEC. 5. MODIFICATIONS RELATING TO CIVIL DAMAGES FOR**  
21 **UNAUTHORIZED INSPECTION OR DISCLO-**  
22 **SURE OF RETURNS AND RETURN INFORMA-**  
23 **TION.**

24 (a) INCREASE IN AMOUNT OF DAMAGES.—Subpara-  
25 graph (A) of section 7431(c)(1) of the Internal Revenue

1 Code of 1986 is amended by striking “\$1,000” and insert-  
2 ing “\$10,000”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to inspections and disclosure occur-  
5 ring on and after the date of the enactment of this Act.

6 **SEC. 6. INTEREST ABATEMENT REVIEWS.**

7 (a) FILING PERIOD FOR INTEREST ABATEMENT  
8 CASES.—

9 (1) IN GENERAL.—Subsection (h) of section  
10 6404 of the Internal Revenue Code of 1986 is  
11 amended—

12 (A) by striking “REVIEW OF DENIAL” in  
13 the heading and inserting “JUDICIAL REVIEW”,  
14 and

15 (B) by striking “if such action is  
16 brought’ ” and all that follows in paragraph (1)  
17 and inserting “if such action is brought—

18 “(A) at any time after the earlier of—

19 “(i) the date of the mailing of the  
20 Secretary’s final determination not to  
21 abate such interest, or

22 “(ii) the date which is 180 days after  
23 the date of the filing with the Secretary (in  
24 such form as the Secretary may prescribe)

1 of a claim for abatement under this sec-  
2 tion, and

3 “(B) not later than the date which is 180  
4 days after the date described in subparagraph  
5 (A)(i).”.

6 (2) EFFECTIVE DATE.—The amendments made  
7 by this subsection shall apply to claims for abate-  
8 ment of interest filed with the Secretary after the  
9 date of the enactment of this Act.

10 (b) SMALL TAX CASE ELECTION FOR INTEREST  
11 ABATEMENT CASES.—

12 (1) IN GENERAL.—Subsection (f) of section  
13 7463 of the Internal Revenue Code of 1986 is  
14 amended—

15 (A) by striking “and” at the end of para-  
16 graph (1),

17 (B) by striking the period at the end of  
18 paragraph (2) and inserting “, and”, and

19 (C) by adding at the end the following new  
20 paragraph:

21 “(3) a petition to the Tax court under section  
22 6404(h) in which the amount of interest abatement  
23 sought does not exceed \$50,000.”.

24 (2) EFFECTIVE DATE.—The amendments made  
25 by this subsection shall apply to—

1 (A) cases pending as of the day after the  
2 date of the enactment of this Act, and

3 (B) cases commenced after such date of  
4 enactment.

5 **SEC. 7. BAN ON EX PARTE DISCUSSIONS.**

6 (a) IN GENERAL.—Notwithstanding section  
7 1001(a)(4) of the Internal Revenue Service Restructuring  
8 and Reform Act of 1998, the Internal Revenue Service  
9 shall prohibit any ex parte communications between offi-  
10 cers in the Internal Revenue Service Office of Appeals and  
11 other Internal Revenue Service employees with respect to  
12 any matter pending before such officers.

13 (b) TERMINATION OF EMPLOYMENT FOR MIS-  
14 CONDUCT.—Subject to subsection (c), the Commissioner  
15 of Internal Revenue shall terminate the employment of  
16 any employee of the Internal Revenue Service if there is  
17 a final administrative or judicial determination that such  
18 employee committed any act or omission prohibited under  
19 subsection (a) in the performance of the employee’s official  
20 duties. Such termination shall be a removal for cause on  
21 charges of misconduct.

22 (c) DETERMINATION OF COMMISSIONER.—

23 (1) IN GENERAL.—The Commissioner of Inter-  
24 nal Revenue may take a personnel action other than

1 termination for an act prohibited under subsection  
2 (a).

3 (2) DISCRETION.—The exercise of authority  
4 under paragraph (1) shall be at the sole discretion  
5 of the Commissioner of Internal Revenue and may  
6 not be delegated to any other officer. The Commis-  
7 sioner of Internal Revenue, in his sole discretion,  
8 may establish a procedure which will be used to de-  
9 termine whether an individual should be referred to  
10 the Commissioner of Internal Revenue for a deter-  
11 mination by the Commissioner under paragraph (1).

12 (3) NO APPEAL.—Any determination of the  
13 Commissioner of Internal Revenue under this sub-  
14 section may not be appealed in any administrative or  
15 judicial proceeding.

16 (d) TIGTA REPORTING OF TERMINATION OR MITI-  
17 GATION.—Section 7803(d)(1)(E) of the Internal Revenue  
18 Code of 1986 is amended by inserting “or section 7 of  
19 the Small Business Taxpayer Bill of Rights Act of 2012”  
20 after “1998”.

21 **SEC. 8. ALTERNATIVE DISPUTE RESOLUTION PROCE-**  
22 **DURES.**

23 (a) IN GENERAL.—Section 7123 of the Internal Rev-  
24 enue Code of 1986 is amended by adding at the end the  
25 following new subsection:



1 “(c) AVAILABILITY OF DISPUTE RESOLUTIONS.—

2 “(1) IN GENERAL.—The procedures prescribed  
3 under subsection (b)(1) and the pilot program estab-  
4 lished under subsection (b)(2) shall provide that a  
5 taxpayer may request mediation or arbitration in  
6 any case unless the Secretary has specifically ex-  
7 cluded the type of issue involved in such case or the  
8 class of cases to which such case belongs as not ap-  
9 propriate for resolution under such subsection. The  
10 Secretary shall make any determination that ex-  
11 cludes a type of issue or a class of cases public with-  
12 in 5 working days and provide an explanation for  
13 each determination.

14 “(2) INDEPENDENT MEDIATORS.—

15 “(A) IN GENERAL.—The procedures pre-  
16 scribed under subsection (b)(1) shall provide  
17 the taxpayer an opportunity to elect to have the  
18 mediation conducted by an independent, neutral  
19 individual not employed by the Office of Ap-  
20 peals.

21 “(B) COST AND SELECTION.—

22 “(i) IN GENERAL.—Any taxpayer  
23 making an election under subparagraph  
24 (A) shall be required—

1                   “(I) to share the costs of such  
2                   independent mediator equally with the  
3                   Office of Appeals, and

4                   “(II) to limit the selection of the  
5                   mediator to a roster of recognized na-  
6                   tional or local neutral mediators.

7                   “(ii) EXCEPTION.—Clause (i)(I) shall  
8                   not apply to any taxpayer who is an indi-  
9                   vidual or who was a small business in the  
10                  preceding calendar year if such taxpayer  
11                  had an adjusted gross income that did not  
12                  exceed 250 percent of the poverty level, as  
13                  determined in accordance with criteria es-  
14                  tablished by the Director of the Office of  
15                  Management and Budget, in the taxable  
16                  year preceding the request.

17                  “(iii) SMALL BUSINESS.—For pur-  
18                  poses of clause (ii), the term ‘small busi-  
19                  ness’ has the meaning given such term  
20                  under section 41(b)(3)(D)(iii).

21                  “(3) AVAILABILITY OF PROCESS.—The proce-  
22                  dures prescribed under subsection (b)(1) and the  
23                  pilot program established under subsection (b)(2)  
24                  shall provide the opportunity to elect mediation or  
25                  arbitration at the time when the case is first filed

1 with the Office of Appeals and at any time before  
2 deliberations in the appeal commence.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

6 **SEC. 9. EXTENSION OF TIME FOR CONTESTING IRS LEVY.**

7 (a) EXTENSION OF TIME FOR RETURN OF PROPERTY  
8 SUBJECT TO LEVY.—Subsection (b) of section 6343 of the  
9 Internal Revenue Code of 1986 is amended by striking “9  
10 months” and inserting “3 years”.

11 (b) PERIOD OF LIMITATION ON SUITS.—Subsection  
12 (c) of section 6532 of the Internal Revenue Code of 1986  
13 is amended—

14 (1) in paragraph (1) by striking “9 months”  
15 and inserting “3 years”, and

16 (2) in paragraph (2) by striking “9-month” and  
17 inserting “3-year”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to—

20 (1) levies made after the date of the enactment  
21 of this Act, and

22 (2) levies made on or before such date if the 9-  
23 month period has not expired under section 6343(b)  
24 of the Internal Revenue Code of 1986 (without re-  
25 gard to this section) as of such date.

1 **SEC. 10. WAIVER OF INSTALLMENT AGREEMENT FEE.**

2 (a) IN GENERAL.—Section 6159 of the Internal Rev-  
3 enue Code of 1986 is amended by redesignating subsection  
4 (f) as subsection (g) and by inserting after subsection (e)  
5 the following new subsection:

6 “(f) WAIVER OF INSTALLMENT AGREEMENT FEE.—  
7 The Secretary shall waive the fees imposed on installment  
8 agreements under this section for any taxpayer with an  
9 adjusted gross income that does not exceed 250 percent  
10 of the poverty level, as determined in accordance with cri-  
11 teria established by the Director of the Office of Manage-  
12 ment and Budget, and who has agreed to make payments  
13 under the installment agreement by electronic payment  
14 through a debit instrument.”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall take effect on the date of the enactment  
17 of this Act.

18 **SEC. 11. SUSPENSION OF RUNNING OF PERIOD FOR FILING**  
19 **PETITION OF SPOUSAL RELIEF AND COLLEC-**  
20 **TION CASES.**

21 (a) PETITIONS FOR SPOUSAL RELIEF.—

22 (1) IN GENERAL.—Subsection (e) of section  
23 6015 of the Internal Revenue Code of 1986 is  
24 amended by adding at the end the following new  
25 paragraph:

1           “(6) SUSPENSION OF RUNNING OF PERIOD FOR  
2           FILING PETITION IN TITLE 11 CASES.—In the case  
3           of an individual who is prohibited by reason of a  
4           case under title 11, United States Code, from filing  
5           a petition under paragraph (1)(A) with respect to a  
6           final determination of relief under this section, the  
7           running of the period prescribed by such paragraph  
8           for filing such a petition with respect to such final  
9           determination shall be suspended for the period dur-  
10          ing which the individual is so prohibited from filing  
11          such a petition, and for 60 days thereafter.”.

12           (2) EFFECTIVE DATE.—The amendment made  
13          by this subsection shall apply to petitions filed under  
14          section 6015(e) of the Internal Revenue Code of  
15          1986 after the date of the enactment of this Act.

16          (b) COLLECTION PROCEEDINGS.—

17           (1) IN GENERAL.—Subsection (d) of section  
18          6330 of the Internal Revenue Code of 1986 is  
19          amended—

20                  (A) by striking “appeal such determination  
21                  to the Tax Court” in paragraph (1) and insert-  
22                  ing “petition the Tax Court for review of such  
23                  determination”,

24                  (B) by striking “JUDICIAL REVIEW OF DE-  
25                  TERMINATION” in the heading of paragraph (1)

1 and inserting “PETITION FOR REVIEW BY TAX  
2 COURT”,

3 (C) by redesignating paragraph (2) as  
4 paragraph (3), and

5 (D) by inserting after paragraph (1) the  
6 following new paragraph:

7 “(2) SUSPENSION OF RUNNING OF PERIOD FOR  
8 FILING PETITION IN TITLE 11 CASES.—In the case  
9 of an individual who is prohibited by reason of a  
10 case under title 11, United States Code, from filing  
11 a petition under paragraph (1) with respect to a de-  
12 termination under this section, the running of the  
13 period prescribed by such subsection for filing such  
14 a petition with respect to such determination shall  
15 be suspended for the period during which the indi-  
16 vidual is so prohibited from filing such a petition,  
17 and for 30 days thereafter.”.

18 (2) CONFORMING AMENDMENT.—Subsection (c)  
19 of section 6320 of such Code is amended by striking  
20 “(2)(B)” and inserting “(3)(B)”.

21 (3) EFFECTIVE DATE.—The amendments made  
22 by this subsection shall apply to petitions filed under  
23 section 6330 of the Internal Revenue Code of 1986  
24 after the date of the enactment of this Act.

1 **SEC. 12. VENUE FOR APPEAL OF SPOUSAL RELIEF AND**  
2 **COLLECTION CASES.**

3 (a) **IN GENERAL.**—Paragraph (1) of section 7482(b)  
4 of the Internal Revenue Code of 1986 is amended—

5 (1) by striking “or” at the end of subparagraph  
6 (E),

7 (2) by striking the period at the end of sub-  
8 paragraph (F) and inserting a comma, and

9 (3) by inserting after subparagraph (F) the fol-  
10 lowing new subparagraphs:

11 “(G) in the case of a petition under section  
12 6015(e), the legal residence of the petitioner, or

13 “(H) in the case of a petition under sec-  
14 tion 6320 or 6330—

15 “(i) the legal residence of the peti-  
16 tioner if the petitioner is an individual, and

17 “(ii) the principal place of business or  
18 principal office or agency if the petitioner  
19 is an entity other than an individual.”.

20 (b) **EFFECTIVE DATE.**—The amendments made by  
21 this section shall apply to petitions filed after the date of  
22 the enactment of this Act.

1 **SEC. 13. INCREASE IN MONETARY PENALTIES FOR CER-**  
2 **TAIN UNAUTHORIZED DISCLOSURES OF IN-**  
3 **FORMATION.**

4 (a) **IN GENERAL.**—Paragraphs (1), (2), (3), and (4)  
5 of section 7213(a) of the Internal Revenue Code of 1986  
6 are each amended by striking “\$5,000” and inserting  
7 “\$10,000”.

8 (b) **EFFECTIVE DATE.**—The amendments made by  
9 this section shall apply to disclosures made after the date  
10 of the enactment of this Act.

11 **SEC. 14. DE NOVO TAX COURT REVIEW OF CLAIMS FOR EQ-**  
12 **UITABLE INNOCENT SPOUSE RELIEF.**

13 (a) **IN GENERAL.**—Subparagraph (A) of section  
14 6015(e)(1) of the Internal Revenue Code of 1986 is  
15 amended by adding at the end the following new flush sen-  
16 tence:

17 “Any review of a determination by the Sec-  
18 retary with respect to a claim for equitable re-  
19 lief under subsection (f) shall be reviewed de  
20 novo by the Tax Court.”.

21 (b) **EFFECTIVE DATE.**—The amendment made by  
22 this section shall apply to petitions filed or pending before  
23 the Tax Court on and after the date of the enactment of  
24 this Act.



1 **SEC. 15. BAN ON RAISING NEW ISSUES ON APPEAL.**

2 (a) IN GENERAL.—Chapter 77 of the Internal Rev-  
3 enue Code of 1986 is amended by adding at the end the  
4 following new section:

5 **“SEC. 7529. PROHIBITION ON INTERNAL REVENUE SERVICE**  
6 **RAISING NEW ISSUES IN AN INTERNAL AP-**  
7 **PEAL.**

8 “(a) IN GENERAL.—In reviewing an appeal of any  
9 determination initially made by the Internal Revenue  
10 Service, the Internal Revenue Service Office of Appeals  
11 may not consider or decide any issue that is not within  
12 the scope of the initial determination.

13 “(b) CERTAIN ISSUES DEEMED OUTSIDE OF SCOPE  
14 OF DETERMINATION.—For purposes of subsection (a), the  
15 following matters shall be considered to be not within the  
16 scope of a determination:

17 “(1) Any issue that was not raised in a notice  
18 of deficiency or an examiner’s report which is the  
19 subject of the appeal.

20 “(2) Any deficiency in tax which was not in-  
21 cluded in the initial determination.

22 “(3) Any theory or justification for a tax defi-  
23 ciency which was not considered in the initial deter-  
24 mination.

25 “(c) NO INFERENCE WITH RESPECT TO ISSUES  
26 RAISED BY TAXPAYERS.—Nothing in this section shall be

1 construed to provide any limitation in addition to any limi-  
2 tations in effect on the date of the enactment of this sec-  
3 tion on the right of a taxpayer to raise an issue, theory,  
4 or justification on an appeal from a determination initially  
5 made by the Internal Revenue Service that was not within  
6 the scope of the initial determination.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 for chapter 77 of such Code is amended by adding at the  
9 end the following new item:

“Sec. 7529. Prohibition on Internal Revenue Service raising new issues in an  
internal appeal.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to matters filed or pending with  
12 the Internal Revenue Service Office of Appeals on or after  
13 the date of the enactment of this Act.

○