DESCRIPTION OF H.R. 1206, A BILL TO PROHIBIT THE HIRING OF ADDITIONAL INTERNAL REVENUE SERVICE EMPLOYEES UNTIL THE SECRETARY OF THE TREASURY CERTIFIES THAT NO INTERNAL REVENUE SERVICE EMPLOYEE HAS SERIOUSLY DELINQUENT TAX DEBT

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
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Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 1206, a bill to prohibit the hiring of additional Internal Revenue Service ("IRS") employees until the Secretary of the Treasury certifies that no employee of the IRS has a seriously delinquent tax debt. This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 1206, A Bill to Prohibit the Hiring of Additional Internal Revenue Service Employees Until The Secretary of the Treasury Certifies That No Internal Revenue Service Employee Has Seriously Delinquent Tax Debt* (JCX-17-16), April 12, 2016. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

A. Prohibition of Hiring of Additional Internal Revenue Service Employees Until the Secretary of the Treasury Certifies that No Employee of the Internal Revenue Service Has a Seriously Delinquent Tax Debt

Present Law

The Code[2] provides that the Commissioner of the IRS has such duties and powers as prescribed by the Secretary. Unless otherwise specified by the Secretary, such duties and powers include the power to administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party, and to recommend to the President a candidate for Chief Counsel (and recommend the removal of the Chief Counsel). Unless otherwise specified by the Secretary, the Commissioner is authorized to employ such persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws and is required to issue all necessary directions, instructions, orders, and rules applicable to such persons,[3] including determination and designation of posts of duty.

Employees of the IRS are subject to rules governing Federal employment generally.[4] As part of the basic obligation of public service, all Federal employees are required to comply with all legal and financial obligations, "especially those - such as Federal, State, or local taxes - that are imposed by law."[5] Failure to do so can result in disciplinary action. An employee of the IRS is subject to termination for willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause and willful understatement of Federal tax liability, unless such understatement is due to reasonable cause.[6]

Standards of Ethical Conduct for Employees of the Executive Branch are supplemented by additional rules applicable to employees of the Department of the Treasury.[7] To enforce these standards, the IRS requires pre-employment audits of all employees and reviews employee compliance with filing requirements. Examinations of IRS employees are accorded high priority and are subject to mandatory review.[8]

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[2] Sec. 7803(a).

[3] Sec. 7804.

[4] Part III of Title 5 of the United States Code prescribes rules for Federal employment, including employment, retention, and management and employee issues.

[5] 5 C.F.R. 2635.101(b)(12).

[6] The IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206, sec. 1203(b), July 22, 1998.

[7] Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. 735. 5 CFR Part 3101, Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury; 31 CFR Part 0, Department of the Treasury Employee Rules of Conduct.

[8] See, *Policy Statement 4-9, Highest Integrity Expected*, IRM 1.2.13.1.7; "Examination of Employee Returns," IRM 4.2.6, available at https://www.irs.gov/irm/part4/irm_04-002-006.html#d0e550.

Explanation of Provision

No offer of employment at the IRS may be extended to anyone until after the date on which the Secretary publicly certifies that the IRS does not employ any individual who has seriously delinquent tax debt.

"Seriously delinquent tax debt" is any outstanding Federal tax liability (including interest and penalties) for which a notice of lien has been filed. Even if a tax debt otherwise meets the statutory threshold, it may not be considered seriously delinquent if (1) the debt is being paid in a timely manner pursuant to an installment agreement or offer-in-compromise, (2) collection action with respect to the debt is suspended because a collection due process hearing or innocent spouse relief has been requested or is pending, (3) the debt is subject to a levy under section 6331 (or an applicant for employment has agreed to be subject to a levy under section 6331) or (4) the debt was released from levy under the authority of section 6343(a)(1)(D) based on a determination that levy on such debt was creating economic hardship.

Effective Date

The proposal is effective after the date of enactment.

B. Estimated Revenue Effect of the Proposal

The proposal cannot be readily estimated at this time but is likely to have a negative effect on Federal fiscal year budget receipts for the period 2016-2026. Although information about the existence of employee examinations may be available to the officials preparing the certification, it is not clear whether the IRS has the current ability to track the existence of tax debt of its employees and determine whether such debt is within the meaning of seriously delinquent tax debt. That inability could lead to reluctance on the part of officials to sign a certification with regard to the existence or nonexistence of employee tax debt. The resulting inability of the IRS to hire anyone would likely erode both enforcement capability and voluntary compliance, and result in a revenue loss.

The extent to which the proposal may increase or decrease Federal outlays for the same period 2016-2026 has not been estimated. In accordance with section 402 of the Budget Act, the Congressional Budget Office has jurisdiction to estimate the effect on direct or discretionary spending.