

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5349  
OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the  
following:

**1 SECTION 1. SHORT TITLE; ETC.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Tax Court Improvement Act”.

4 (b) AMENDMENT OF 1986 CODE.—Except as other-  
5 wise expressly provided, whenever in this Act an amend-  
6 ment is expressed in terms of an amendment to a section  
7 or other provision, the reference shall be considered to be  
8 made to a section or other provision of the Internal Rev-  
9 enue Code of 1986.

10 (c) REFERENCES TO SECRETARY.—For purposes of  
11 this Act, the term “Secretary” means the Secretary of the  
12 Treasury or the Secretary’s delegate.

13 (d) TABLE OF CONTENTS.—The table of contents of  
14 this Act is as follows:

Sec. 1. Short title; etc.

Sec. 2. Authorization of subpoenas before hearings to facilitate settlements.

Sec. 3. Authorization of special trial judges to hear additional cases and ad-  
dress contempt.

Sec. 4. Disqualification of judges and special trial judges.

Sec. 5. Clarification of Tax Court jurisdiction to apply equitable tolling in defi-  
ciency cases.

1 **SEC. 2. AUTHORIZATION OF SUBPOENAS BEFORE HEAR-**  
2 **INGS TO FACILITATE SETTLEMENTS.**

3 Section 7456(a) is amended to read as follows:

4 “(a) IN GENERAL.—

5 “(1) ADMINISTRATION OF OATHS.—For the ef-  
6 ficient administration of the functions vested in the  
7 Tax Court or any division thereof, any judge or spe-  
8 cial trial judge, the clerk or the clerk’s deputies, as  
9 such, or any other employee of the Tax Court des-  
10 ignated in writing for the purpose by the chief judge,  
11 may administer oaths or affirmations.

12 “(2) SUBPOENA AUTHORITY.—Any judge or  
13 special trial judge may examine witnesses and re-  
14 quire, by subpoena ordered by the Tax Court or any  
15 division thereof and signed by the judge or special  
16 trial judge (or by the clerk of the Tax Court or by  
17 any other employee of the Tax Court when acting as  
18 deputy clerk), any of the following:

19 “(A) The attendance of parties or wit-  
20 nesses.

21 “(B) The production of books, papers, doc-  
22 uments, electronically stored information, or  
23 tangible things from any place in the United  
24 States by any party or witness having custody  
25 or control thereof for purposes of discovery or  
26 for use of the things produced as evidence in

1           accordance with the rules and orders of the Tax  
2           Court.

3           Any such subpoena shall be issued and served, and  
4           compliance therewith shall be compelled, as provided  
5           in the rules and orders of the Tax Court.

6           “(3) DEPOSITIONS.—Pursuant to rules and or-  
7           ders of the Court, the deposition of a witness may  
8           be taken before any designated individual competent  
9           to administer oaths under this title. Any deposition  
10          testimony shall be reduced to writing by the indi-  
11          vidual taking the deposition, or under such individ-  
12          ual’s direction, and shall be subscribed by the depo-  
13          nent.”.

14 **SEC. 3. AUTHORIZATION OF SPECIAL TRIAL JUDGES TO**  
15 **HEAR ADDITIONAL CASES AND ADDRESS**  
16 **CONTEMPT.**

17          (a) CONSENT TO ASSIGNMENT.—Section 7443A(b) is  
18          amended by striking “and” at the end of paragraph (6),  
19          by redesignating paragraph (7) as paragraph (8), and by  
20          inserting after paragraph (6) the following new paragraph:

21               “(7) upon the consent of the parties, and pur-  
22               suant to rules promulgated by the Tax Court, any  
23               proceeding not described in paragraphs (1) through  
24               (6), and”, and

1 (b) AUTHORIZING SPECIAL TRIAL JUDGE.—Section  
2 7443A(c) is amended by striking “or (6)” and inserting  
3 “(6), or (7)”.

4 (c) CONTEMPT AUTHORITY.—Section 7443A is  
5 amended by adding at the end the following new sub-  
6 section:

7 “(f) INCIDENTAL POWERS.—A special trial judge ap-  
8 pointed under this section shall have the power to punish  
9 for contempt of the authority of the Tax Court as provided  
10 in section 7456(c), except the sentence imposed by such  
11 a special trial judge for any contempt shall not exceed the  
12 penalties for a Class C misdemeanor as set forth in sec-  
13 tions 3571(b)(6) and 3581(b)(8) of title 18, United States  
14 Code. This subsection shall not be construed to limit the  
15 authority of a special trial judge to order sanctions under  
16 any other statute or any rule of the Tax Court prescribed  
17 pursuant to section 7453.”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 subsections (a) and (b) shall take effect on the date the  
20 United States Tax Court adopts rules implementing the  
21 consent procedures of section 7443A.

1 **SEC. 4. DISQUALIFICATION OF JUDGES AND SPECIAL**  
2 **TRIAL JUDGES.**

3 (a) IN GENERAL.—Part II of subchapter C of chap-  
4 ter 76 is amended by adding at the end the following new  
5 section:

6 **“SEC. 7467. DISQUALIFICATION OF JUDGE OR SPECIAL**  
7 **TRIAL JUDGE.**

8 “Section 455 of title 28, United States Code, shall  
9 apply to judges, special trial judges, and proceedings of  
10 the Tax Court.”.

11 (b) CLERICAL AMENDMENT.—The table of sections  
12 for such part is amended by adding at the end the fol-  
13 lowing new item:

“Sec. 7467. Disqualification of judge or special trial judge.”.

14 **SEC. 5. CLARIFICATION OF TAX COURT JURISDICTION TO**  
15 **APPLY EQUITABLE TOLLING IN DEFICIENCY**  
16 **CASES.**

17 (a) IN GENERAL.—Section 7451(b) is amended to  
18 read as follows:

19 “(b) TOLLING OF TIME.—

20 “(1) IN GENERAL.—The Tax Court shall have  
21 jurisdiction to toll the period for filing a petition  
22 under section 6213(a) in cases in which the Tax  
23 Court determines based on the facts and cir-  
24 cumstances that equity warrants such tolling.

1           “(2) RULES FOR INACCESSIBLE FILING LOCA-  
2           TIONS.—

3           “(A) IN GENERAL.—Notwithstanding any  
4           other provision of this title, in any case (includ-  
5           ing by reason of a lapse in appropriations) in  
6           which a filing location is inaccessible or other-  
7           wise unavailable to the general public on the  
8           date a petition is due, the relevant time period  
9           for filing such petition shall be tolled for the  
10          number of days within the period of inaccess-  
11          sibility plus an additional 14 days.

12          “(B) FILING LOCATION.—For purposes of  
13          this paragraph, the term ‘filing location’  
14          means—

15                 “(i) the office of the clerk of the Tax  
16                 Court, or

17                 “(ii) any on-line portal made available  
18                 by the Tax Court for electronic filing of  
19                 petitions.”.

20          (b) CONFORMING AMENDMENT.—Section 7459(d) is  
21          amended—

22                 (1) by striking “If a petition” and inserting the  
23          following:

24                 “(1) IN GENERAL.—If a petition”, and

1           (2) by adding at the end the following new  
2 paragraph:

3           “(2) EXCEPTION.—Paragraph (1) shall not  
4 apply with respect to any dismissal which is solely  
5 based on a determination of the Tax Court not to  
6 toll the period for filing a petition under section  
7 6213(a).”.

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

11          (d) NO INFERENCE.—The amendment made by sub-  
12 sections (a) shall not be construed to create any inference  
13 with respect to the jurisdiction of the Tax Court with re-  
14 spect to any petition filed on or before the date of the  
15 enactment of this Act.

