United States House Committee on
Ways & Means
CHAIRMAN JASON SMITH

H.R. 5346, the *Fair and Accountable IRS Reviews (FAIR) Act*

Rep. Grothman (R-WI)

Background:

- The Tax Code includes **multiple provisions governing the proper application of penalties** and additions to tax on taxpayers.
- Currently Section 6751(b) states that "No penalty under the title shall be assessed unless the **initial determination** of such assessment is personally approved **(in writing) by the immediate supervisor** of the individual making such determination".
  - **No definition of "initial determination"** is provided.
  - **No specificity concerning the requisite supervisor** approval is included.
- Currently, an IRS agent's "immediate supervisor" provides a signature of approval at the initial determination of a tax penalty.
  - An **"immediate supervisor" is not a person to whom an IRS agent reports** but instead is an "individual with responsibility to review another individual's proposal of penalties".
- The Biden-era IRS rule significantly weakened taxpayer protections by allowing IRS agents to shop around for sympathetic supervisors.
  - This circular definition is so broad that **IRS agents can obtain approval to apply tax penalties on taxpayers from virtually any other employee**.

The Fair and Accountable IRS Reviews (FAIR) Act:

- Clarifies that **supervisory approval of a penalty is timely only if the person proposing such penalty obtains the approval in writing** prior to any written communication to a taxpayer with respect to such penalty.
  - The written approval must be provided by the immediate supervisor of the person proposing the penalty or such other higher supervisory person as the Secretary may identify.
- The bill also defines **immediate supervisor to be the person to whom the individual making the determination reports**.
- This bill holds the IRS accountable to ensure the agency employees are levying fines and penalties on taxpayers in accordance with the law.