DESCRIPTION OF H.R. ____, THE "TAXPAYER DUE PROCESS ENHANCEMENT ACT"

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on December 10, 2025

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 for December 10, 2025, of H.R. ____, the "Taxpayer Due Process Enhancement Act." This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of this bill.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. ____, the "Taxpayer Due Process Enhancement Act"* (JCX-48-25), December 8, 2025. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references in the document are to the Internal Revenue Code of 1986, as amended (the "Code"), unless otherwise stated.

A. Collection Due Process Hearings, Tax Court Review and Claims for Credit or Refund

Present Law

Collection due process hearings

When a taxpayer neglects or refuses to pay an internal revenue tax liability, in most cases the Internal Revenue Service ("IRS") may levy on the taxpayer's property or file a notice of Federal tax lien against the taxpayer's property.[2] Generally the IRS must inform the taxpayer by notice before making the levy or within five days of filing the notice of lien, and the notice must indicate the taxpayer's right to request a hearing with the IRS Independent Office of Appeals ("IRS Appeals") to dispute the collection action, generally called a "collection due process" hearing.[3] If the taxpayer properly requests a hearing, the IRS Appeals officer generally must (1) verify that the requirements of any applicable law or administrative procedure relating to the collection action have been met, (2) consider any relevant issues raised by the taxpayer, including collection alternatives such as an installment agreement or offer-in-compromise, and (3) determine whether the collection action balances the need for efficient collection of taxes with the taxpayer's legitimate concern that collection be no more intrusive than necessary.[4]

The taxpayer may raise challenges to the existence or amount of the underlying tax liability only if the taxpayer did not receive a notice of deficiency for the liability or did not otherwise have a prior opportunity to dispute the liability.[5] Examples of a prior opportunity include (1) a bankruptcy case in the which the IRS filed a proof of claim for the liability (whether or not the taxpayer disputed the claim),[6] and (2) an opportunity (whether or not availed of) for a conference with IRS Appeals regarding the liability, unless the liability is for a tax subject to deficiency procedures.[7]

The taxpayer generally may not raise an issue (including an underlying tax liability) at a collection due process hearing if, among other reasons, the issue was raised and considered at a

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[2] Secs. 6321, 6331.

[3] Secs. 6320(a), 6330(a).

[4] Sec. 6330(c).

[5] Sec. 6330(c)(2)(B).

[6] See, *e.g.*, *Kendricks v. Commissioner*, 124 T.C. 69 (2005).

[7] Treas. Reg. sec. 301.6330-1(e)(3), Q&A-E2; *Lewis v. Commissioner*, 128 T.C. 48 (2007). The taxes subject to deficiency procedures are income tax, gift tax, estate tax, and certain excise taxes. See secs. 6211(a), 6212(a).

previous collection due process hearing or in any other previous administrative or judicial proceeding in which the taxpayer meaningfully participated.[8]

Once a taxpayer has properly requested a collection due process hearing relating to a proposed levy, in most cases the IRS may not pursue a levy for the tax liability at issue for the duration of the hearing and any appeals of the hearing determination.[9] Also, the following periods of limitation generally are suspended for the duration of the hearing and any appeals:[10] (1) any period of limitation for the post-assessment collection of a tax liability regarding which the hearing was requested (typically a 10-year period),[11] (2) any period of limitation to bring criminal charges against the taxpayer with respect to a tax liability regarding which the hearing was requested (typically a three- or six-year period following commission of the offense),[12] (3) any period of limitation for the taxpayer to bring suit against the United States to remedy the wrongful collection of a tax regarding which the hearing was requested (typically a two-year period following the IRS's disallowance of the prerequisite claim for credit or refund),[13] (4) any period of limitation for the United States to bring suit against the taxpayer to recover an erroneous refund of a tax regarding which the hearing was requested (typically a two-year period following the making of the refund),[14] and (5) any period of limitation for certain third parties to bring suit against the United States relating to levies and liens used to collect a tax regarding which the hearing was requested (typically a two-year period following the levy or the sale of property subject to lien).[15]

The pendency of a collection due process hearing or an appeal therefrom does not affect the general rule that the IRS may credit overpayments made by the taxpayer for one tax and tax period to other taxes and tax periods with outstanding assessed liabilities.[16] Therefore, while a collection due process hearing or appeal is pending, the IRS may credit overpayments for taxes

[8] Sec. 6330(c)(4)(A).

[9] Sec. 6330(e)(1); Treas. Reg. sec. 1.6330-1(g)(1). The prohibition on levy activity while an appeal is pending does not apply if the underlying tax liability is not at issue in the appeal and the court determines that the IRS has shown good cause not to suspend the levy. Sec. 6330(e)(2); see also sec. 6330(f) (providing that the collection due process protections generally do not apply in the following circumstances: (1) the IRS duly determines that collection of the tax in question is in jeopardy; (2) the IRS levies on a taxpayer's State tax refund; (3) the IRS levies to collect employment taxes owed by a person who requested a collection due process hearing with respect to unpaid employment taxes arising in the two-year period preceding the beginning of the taxable period in which the levy is served; and (4) the IRS levies on a Federal contractor).

[10] Sec. 6330(e)(1); Treas. Reg. secs. 1.6330-1(g)(2) Q&A-G1, 1.6320-1(g)(2) Q&A-G1.

[11] See sec. 6502.

[12] See sec. 6531.

[13] See sec. 6532(a).

[14] See sec. 6532(b).

[15] See sec. 6532(c).

[16] See sec. 6402(a).

and tax periods not at issue in the hearing or appeal against the tax liabilities subject to the liens or levies at issue in the hearing or appeal.

Tax Court review

Once IRS Appeals issues a notice of determination after a collection due process hearing, the taxpayer may file a petition with the United States Tax Court ("Tax Court") to appeal the determination.[17] The petition generally must be filed within 30 days of the mailing of the notice of determination.[18] However, the Supreme Court has held that the 30-day deadline is not jurisdictional (that is, the Tax Court has jurisdiction over late-filed petitions) and is subject to equitable tolling.[19]

In a collection due process appeal, the Tax Court considers a challenge to the underlying tax liability only if the taxpayer challenged the liability during the IRS Appeals hearing and was entitled to do so.[20] When the underlying liability is reviewable, the Tax Court reviews it *de novo* (that is, not giving deference to the IRS's determination of the liability) and considers evidence introduced at trial beyond what is contained in the IRS's administrative record of the hearing.[21]

In *Commissioner v. Zuch*, the Supreme Court held that the Tax Court loses jurisdiction over a collection due process appeal when, after the petition is filed, the IRS revokes its determination to maintain or pursue the lien or levy at issue—for instance, because the IRS has applied the taxpayer's overpayments from other tax years to fully satisfy the liability at issue in the Tax Court case.[22] Therefore, even if the underlying liability was otherwise reviewable, the Tax Court may not review it if the IRS revokes its determination.[23] Instead, if the taxpayer believes that amounts have been improperly credited towards the alleged underlying liability, the taxpayer must fully pay the alleged liability (if not already fully paid) and, if the relevant period of limitations has not expired, may file a claim for credit or refund. If the IRS rejects the claim or fails to act on it, the taxpayer may file suit in a U.S. district court or the U.S. Court of Federal Claims.[24]

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[17] Sec. 6330(d).

[18] Sec. 6330(d)(1).

[19] *Boechler, P.C. v. Commissioner*, 596 U.S. 199 (2022). "[E]quitable tolling pauses the running of, or 'tolls,' a [period] of limitations when a litigant has pursued his rights diligently but some extraordinary circumstance prevents him from bringing a timely action." *Lozano v. Montoya Alvarez*, 572 U.S. 1, 10 (2014).

[20] See *Goza v. Commissioner*, 114 T.C. 176, 181–82 (2000).

[21] *Ibid.*; *Jordan v. Commissioner*, 134 T.C. 1, 8–9 (2010).

[22] *Commissioner v. Zuch*, 605 U.S. 422 (2025).

[23] *Ibid.* at 431–32.

[24] Secs. 6532(a)(1), 7422; 28 U.S.C. sec. 1346(a)(1).

Limitations on claims for credit or refund

If a taxpayer wishes to recover an overpayment[25] of any internal revenue tax, generally the taxpayer must file a claim for credit or refund with the IRS within three years of filing the relevant tax return or (if later) within two years of paying the tax.[26] If the taxpayer did not file a return for the tax in question, the claim must be filed within two years of paying the tax.[27] If the taxpayer and the IRS have executed an agreement to extend the period for assessing a tax (which normally runs for three years after the return is filed),[28] and the agreement was executed before the expiration of the usual period for filing a claim for credit or refund of the tax at issue, then the deadline for filing the claim typically is extended to six months after the agreed-upon deadline for assessment.[29]

The normal period of limitations for filing a claim for credit or refund may be replaced by or supplemented with a longer or additional period in certain enumerated cases, such as an overpayment attributable to a deduction for a worthless debt or security (in which case the claim may be filed within seven years of the due date for the relevant return) or an overpayment attributable to the foreign tax credit (in which case the claim may be filed within 10 years of the due date for filing a return for the year in which the foreign taxes were paid or accrued).[30] Additionally, the normal period of limitations generally is suspended for an individual taxpayer during periods when that taxpayer is financially disabled.[31]

Even if a taxpayer properly and timely files a claim for credit or refund, the amount of credit or refund allowed may not exceed the amount of the relevant tax paid during the applicable "lookback" period. If the claim for credit or refund was filed within three years of filing the relevant tax return, the lookback period generally is the three years (plus any extension

[25] According to the Supreme Court, an overpayment occurs "when a taxpayer pays more than is owed, for whatever reason or no reason at all." *United States v. Dalm*, 494 U.S. 596, 609 n.6 (1990). Section 6401(a) also provides: "The term 'overpayment' includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto."

[26] Sec. 6511(a). If the IRS determines, in response to a timely claim, that an overpayment was made, generally it may credit the overpayment (plus interest) against any other internal revenue tax liabilities of the taxpayer and refund the balance, if any. Sec. 6402(a).

[27] Sec. 6511(a).

[28] See sec. 6501(a), (c)(4).

[29] Sec. 6511(c)(1).

[30] See sec. 6511(d); see also secs. 547(b)(2), 1314(b), 2014(e), 2058(b), 6013(b)(3)(B), 6411, 6427(i)(2), 6512(b), 7508(a)(1)(E), 7508A.

[31] Sec. 6511(h). For these purposes, an individual is financially disabled if such individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Sec. 6511(h)(2)(A).

of time granted for filing the return) immediately preceding the filing of the claim.[32] If the claim for credit or refund was filed within two years of paying the tax but more than three years after filing the relevant return, the lookback period generally is the two years immediately preceding the filing of the claim.[33] If the IRS allows a credit or refund other than in response to a filed claim, the lookback period is the period that would apply if the taxpayer had filed a claim on the date the credit or refund is allowed.[34] In cases where the taxpayer and the IRS have executed an agreement to extend the period for assessing a tax, and a claim is filed (or a credit or refund otherwise allowed) after the agreement's execution and before the expiration of six months following the agreed-upon assessment deadline, the amount of credit or refund allowed with respect to the tax in question may not exceed the sum of (1) the amount of the tax paid in the lookback period that would apply if a claim had been filed on the date of the agreement's execution, plus (2) the amount of the tax paid between the agreement's execution and the filing of the claim (or the making of the credit or refund).[35]

Description of Proposal

Suspension of period of limitations on filing a claim for credit or refund during collection due process proceedings

If a taxpayer requests a collection due process hearing, the proposal in some cases suspends the running of the normal period of limitations for filing a claim for credit or refund from the date the IRS receives the taxpayer's hearing request until the hearing concludes and all appeal rights have lapsed or been exhausted. The suspension applies only to a claim for credit or refund of a tax properly disputed at the hearing, and the suspension ends after any date on which a lapse of a deadline, a court filing, or a court order establishes that the taxpayer has forfeited or otherwise lost the right to dispute the amount of the tax liability.

The suspension provided by the proposal applies to the extended period for filing a claim for credit or refund in the case of an agreement between the taxpayer and the IRS to extend the period for assessing tax,[36] and it also applies to the lookback periods for determining the amount of credit or refund allowed in response to a timely claim.[37] The suspension provided by the proposal does not apply to the extended periods of limitations for certain enumerated types of

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[32] Sec. 6511(b)(2)(A).

[33] Sec. 6511(b)(2)(B).

[34] Sec. 6511(b)(2)(C).

[35] Sec. 6511(c)(2).

[36] See sec. 6511(c).

[37] See sec. 6511(b), (c)(2). For example, if the taxpayer pays a tax on Date 1, properly requests a collection due process hearing related to that tax on Date 2, and files a claim for credit or refund related to that tax on Date 3 (the first date on which the hearing and all appeals have ended), and the conditions for suspension apply, the lookback period does not include the period between Dates 2 and 3 (*i.e.*, the period during which the hearing and appeals were pending).

overpayments, such as those attributable to a deduction for a worthless debt or security or the foreign tax credit.[38]

Prohibition on crediting of overpayments against disputed tax liability during collection action proceedings

In the case of a taxpayer who properly disputes the liability amount at a collection due process hearing, the proposal generally prohibits the IRS, from the time it receives the hearing request until the hearing concludes and all appeal rights have lapsed or been exhausted, from crediting any overpayments made by the taxpayer for other taxes or tax periods against the liability in dispute. The prohibition may be waived by the taxpayer, and the prohibition ends after any date on which a lapse of a deadline, a court filing, or a court order establishes that the taxpayer has forfeited or otherwise lost the right to dispute the amount of the tax liability.

Expansion of the Tax Court's collection due process jurisdiction

The proposal provides that when a taxpayer files a Tax Court petition to contest a collection due process hearing determination to sustain a lien or levy, the Tax Court acquires jurisdiction not only over the determination (as under present law) but also and independently over the tax liability amount, in cases where the taxpayer properly disputed the liability amount at the hearing and petitions for review of it. The proposal provides that the Tax Court retains jurisdiction over both the hearing determination and the liability amount whether or not the IRS abandons any lien or proposed levy at issue. Accordingly, the proposal abrogates the Supreme Court's holding in *Commissioner v. Zuch*.

Effective Date

The part of the proposal concerning the suspension of the period of limitations for filing a claim for credit or refund applies to any period of limitations that (as determined without regard to the amendments) ends on or after the date of enactment. The part of the proposal concerning the crediting of overpayments during periods when certain collection due process hearings or appeals are pending applies to any such period if any portion of it falls after the date of enactment. The part of the proposal concerning the jurisdiction of the Tax Court applies to petitions filed after the date of enactment.

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[38] See, *e.g.*, sec. 6511(d).

B. Estimated Revenue Effects of the Proposal

The staff of the Joint Committee on Taxation estimates the bill to have the following effect on Federal fiscal year budget receipts for the period 2026 through 2035:

Fiscal Years
[Millions of Dollars]

2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2026-35
[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	-1

NOTE: Details do not add to totals due to rounding. The date of enactment is assumed to be December 31, 2025.

[1] Loss of less than $500,000.