

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7959
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 “IRS Whistleblower Program 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. Standard and scope of review of whistleblower award determinations.
- Sec. 3. Whistleblower privacy protections.
- Sec. 4. Modification of IRS whistleblower report.
- Sec. 5. Interest on whistleblower awards.
- Sec. 6. Correction regarding deductions for attorney’s fees.

1 **SEC. 2. STANDARD AND SCOPE OF REVIEW OF WHISTLE-**
2 **BLOWER AWARD DETERMINATIONS.**

3 (a) **IN GENERAL.**—Paragraph (4) of section 7623(b)
4 is amended—

5 (1) by striking “appealed to” and inserting “re-
6 viewed by”, and

7 (2) by adding at the end the following: “Any re-
8 view by the Tax Court under the preceding sentence
9 shall be de novo and shall be based on the adminis-
10 trative record established at the time of the original
11 determination and any additional newly discovered
12 or previously unavailable evidence.”.

13 (b) **CONFORMING AMENDMENT.**—The heading of
14 paragraph (4) of section 7623(b) is amended by striking
15 “APPEAL” and inserting “REVIEW”.

16 (c) **EFFECTIVE DATE.**—The amendments made by
17 this section shall apply to petitions under section
18 7623(b)(4) of the Internal Revenue Code of 1986 which
19 are pending on, or filed on or after, the date of the enact-
20 ment of this Act.

21 **SEC. 3. WHISTLEBLOWER PRIVACY PROTECTIONS.**

22 (a) **IN GENERAL.**—Paragraph (6) of section 7623(b)
23 is amended by adding at the end the following new sub-
24 paragraph:

25 “(D) **WHISTLEBLOWER ANONYMITY BE-**
26 **FORE THE TAX COURT.**—Notwithstanding sec-

1 tions 7458 and 7461, a whistleblower shall pro-
2 ceed anonymously before the Tax Court for all
3 proceedings under this section absent a finding
4 by the Tax Court that a societal interest exists
5 for disclosing the whistleblower’s identity which
6 exceeds the potential harm disclosure could
7 cause to the whistleblower.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 this section shall apply to petitions filed with the Tax
10 Court which are pending on, or filed on or after, the date
11 of the enactment of this Act.

12 **SEC. 4. MODIFICATION OF IRS WHISTLEBLOWER REPORT.**

13 (a) **IN GENERAL.**—Section 406(c) of division A of the
14 Tax Relief and Health Care Act of 2006 is amended by
15 striking “such use,” in paragraph (1) and inserting “such
16 use (which shall include a list and descriptions of the top
17 tax avoidance schemes, not to exceed 10, disclosed by
18 whistleblowers during such year),”.

19 (b) **EFFECTIVE DATE.**— The amendments made by
20 this section shall apply to reports for fiscal years ending
21 after the enactment of this Act.

22 **SEC. 5. INTEREST ON WHISTLEBLOWER AWARDS.**

23 (a) **IN GENERAL.**—Section 7623(b) is amended by
24 adding at the end the following new paragraph:

25 “(7) **INTEREST.**—

1 “(A) IN GENERAL.—If the Secretary has
2 not provided notice to an individual described in
3 paragraph (1) of a preliminary award rec-
4 ommendation before the applicable date, the
5 amount of any award under this subsection
6 shall include interest from such date at the
7 overpayment rate under section 6621(a).

8 “(B) EXCEPTION.—No interest shall ac-
9 crue under this paragraph after the date on
10 which the Secretary provides notice to the indi-
11 vidual of a preliminary award recommendation.

12 “(C) APPLICABLE DATE.—For purposes of
13 this paragraph, the applicable date is the date
14 that is 12 months after the first date on
15 which—

16 “(i) all of the proceeds resulting from
17 actions subject to the award recommenda-
18 tion have been collected, and

19 “(ii) either—

20 “(I) the statutory period for fil-
21 ing a claim or suit for refund has ex-
22 pired, or

23 “(II) the taxpayers subject to the
24 actions and the Secretary have agreed
25 with finality to the tax or other liabil-

1 ities for the periods at issue, and ei-
2 ther the taxpayers have waived the
3 right to file a claim or suit for refund
4 or any claim or suit for refund has
5 been resolved.”.

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall take effect 180 days after the date
9 of the enactment of this Act.

10 (2) SPECIAL RULE.—If, as of the date de-
11 scribed in paragraph (1)—

12 (A) the Secretary has not provided notice
13 to the individual of a preliminary award rec-
14 ommendation as described in paragraph (7)(A)
15 of section 7623(b) of the Internal Revenue
16 Code of 1986, as added by this Act, and

17 (B) the applicable date provided in para-
18 graph (7)(C) of such section, as so added, has
19 passed,

20 the applicable date for purposes of such paragraph
21 (7)(C) is the date that is 12 months after the date
22 described in paragraph (1).

1 **SEC. 6. CORRECTION REGARDING DEDUCTIONS FOR AT-**
2 **TORNEY'S FEES.**

3 (a) **IN GENERAL.**—Section 62(a)(21)(A)(i) is amend-
4 ed by striking “7623(b)” and inserting “7623”.

5 (b) **EFFECTIVE DATE.**—The amendment made by
6 this section shall apply to taxable years ending after the
7 date of the enactment of this Act.

