

103^D CONGRESS
1ST SESSION

H. R. 3261

To amend the Internal Revenue Code of 1986 to provide that Internal Revenue Service employees shall be personally liable for litigation costs resulting from arbitrary, capricious, or malicious acts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 1993

Mr. TRAFICANT introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide that Internal Revenue Service employees shall be personally liable for litigation costs resulting from arbitrary, capricious, or malicious acts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. INTERNAL REVENUE SERVICE EMPLOYEES**

4 **PERSONALLY LIABLE IN CERTAIN CASES.**

5 (a) GENERAL RULE.—Section 7430 of the Internal
6 Revenue Code of 1986 is amended by adding at the end
7 thereof the following new subsection:

1 “(g) PERSONAL LIABILITY OF INTERNAL REVENUE
2 SERVICE EMPLOYEES IN CERTAIN CASES.—

3 “(1) IN GENERAL.—In any proceeding in which
4 the prevailing party is awarded a judgment for rea-
5 sonable litigation costs under this section, the court
6 may assess a portion of such costs against any In-
7 ternal Revenue Service employee (and such employee
8 shall not be reimbursed by the United States for the
9 costs so assessed) if the court determines that such
10 proceeding resulted from any arbitrary, capricious,
11 or malicious act of such employee.

12 “(2) REPRESENTATION OF EMPLOYEE.—Upon
13 the request of any Internal Revenue Service em-
14 ployee, such employee may be represented by the
15 United States in any proceeding with respect to the
16 issue of whether there is to be an assessment against
17 such employee under paragraph (1). If, in any case
18 in which such an employee is so represented by the
19 United States, it is finally determined that such em-
20 ployee is liable for an assessment under paragraph
21 (1), such employee shall also be liable to repay the
22 United States for the cost of its representation
23 under this paragraph.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply in the case of proceedings com-
3 menced after the date of the enactment of this Act.

4 **SEC. 2. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAM-**
5 **AGES FOR UNAUTHORIZED COLLECTION AC-**
6 **TIONS.**

7 (a) GENERAL RULE.—Subsection (b) of section 7433
8 of such Code (relating to damages) is amended by striking
9 “\$100,000” and inserting “\$1,000,000”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to actions by officers or employ-
12 ees of the Internal Revenue Service after the date of the
13 enactment of this Act.

14 **SEC. 3. BURDEN OF PROOF AS TO FRAUD.**

15 (a) GENERAL RULE.—Chapter 77 of the Internal
16 Revenue Code of 1986 (relating to miscellaneous provi-
17 sions) is amended by adding at the end thereof the follow-
18 ing new section:

19 **“SEC. 7524. BURDEN OF PROOF WITH RESPECT TO FRAUD.**

20 “In the case of any court proceeding, the burden of
21 proof with respect to the issue of whether any person has
22 been guilty of fraud with intent to evade tax shall be upon
23 the Secretary.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 77 of such Code is amended by adding at the
3 end thereof the following new item:

 “Sec. 7524. Burden of proof with respect to fraud.”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act.

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