

110TH CONGRESS
2D SESSION

S. 3659

To amend the Internal Revenue Code of 1986 to provide for the disclosure of schedule M-3 to the Securities and Exchange Commission, to provide for the public disclosure of certain information on such schedule, to provide penalties for failure to file such schedule or inaccurately reporting information on such schedule, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for the disclosure of schedule M-3 to the Securities and Exchange Commission, to provide for the public disclosure of certain information on such schedule, to provide penalties for failure to file such schedule or inaccurately reporting information on such schedule, 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. SHORT TITLE.**

4 This Act may be cited as the “Corporate Trans-
5 parency Act of 2007”.

1 **SEC. 2. DISCLOSURE OF BOOK-TAX DIFFERENCES TO SECU-**
2 **RITIES AND EXCHANGE COMMISSION.**

3 (a) DISCLOSURE FOR ENFORCEMENT PURPOSES.—

4 (1) IN GENERAL.—Subsection (l) of section
5 6103 of the Internal Revenue Code of 1986 (relating
6 to disclosure of returns and return information for
7 purposes other than tax administration) is amended
8 by adding at the end the following new paragraph:

9 “(21) DISCLOSURE OF RETURN INFORMATION
10 TO SECURITIES AND EXCHANGE COMMISSION.—

11 “(A) IN GENERAL.—The Secretary shall,
12 upon written request from the Commissioner of
13 the Securities and Exchange Commission, dis-
14 close to officers and employees of the Securities
15 and Exchange Commission return information
16 of specified public entities relating to the rec-
17 onciliation of financial income statements re-
18 ported to the Securities and Exchange Commis-
19 sion (or to shareholders) with income tax re-
20 turns.

21 “(B) RESTRICTION ON USE OF DISCLOSED
22 INFORMATION.—Any officers and employees of
23 the Securities and Exchange Commission re-
24 ceiving return information under subparagraph
25 (A) shall use such information only—

1 “(i) for the purposes of, and to the
2 extent necessary in, civil enforcement and
3 administration of the securities laws (as
4 defined in section 3 of the Securities and
5 Exchange Act of 1934), and

6 “(ii) for purposes of conducting the
7 study required under section 5(a) of the
8 Corporate Transparency Act of 2007.

9 “(C) SPECIFIED PUBLIC ENTITY.—For
10 purposes of this paragraph, the term ‘specified
11 public entity’ means any entity—

12 “(i) issuing any class of securities re-
13 quired to be registered under section 12 of
14 the Securities and Exchange Act of 1934,
15 and

16 “(ii) which is required by the Sec-
17 retary to file schedule M-3.

18 In the case of an entity which is a member of
19 an affiliated group filing a consolidated return,
20 the term ‘specified public entity’ means such
21 group and not each member thereof.”.

22 (2) PROCEDURES AND RECORD KEEPING RE-
23 LATED TO DISCLOSURE.—Subsection (p)(4) of sec-
24 tion 6103 of the Internal Revenue Code of 1986 is
25 amended—

1 (A) by striking “(14), or (17)” in the mat-
 2 ter before subparagraph (A) and inserting
 3 “(14), (17), or (21)”, and

4 (B) by striking “(15), or (17)” in subpara-
 5 graph (F)(ii) and inserting “(15), (17), or
 6 (21)”.

7 (b) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to requests made after the date
 9 of the enactment of this Act.

10 **SEC. 3. PUBLIC DISCLOSURE OF CERTAIN CORPORATE**
 11 **BOOK-TAX DIFFERENCES.**

12 (a) IN GENERAL.—Subchapter B of chapter 61 of the
 13 Internal Revenue Code of 1986 is amended by inserting
 14 after section 6104 the following new section:

15 **“SEC. 6104A. PUBLIC DISCLOSURE OF CERTAIN COR-**
 16 **PORATE BOOK-TAX DIFFERENCES.**

17 “(a) IN GENERAL.—The Secretary shall make pub-
 18 licly available, on the Internet and at the offices of the
 19 Internal Revenue Service, the information described in
 20 subsection (b) with respect to each specified entity for
 21 each taxable year ending after the date of the enactment
 22 of this section.

23 “(b) INFORMATION.—The information described in
 24 this subsection with respect to a specified entity are the
 25 following items:

1 “(1) The name and address of the specified en-
2 tity.

3 “(2) The CUSIP identification number under
4 which the entity files reports with the Securities and
5 Exchange Commission, if any.

6 “(3) The following information relating to the
7 worldwide consolidated income statement of the
8 specified entity for the period ending with or within
9 the taxable year:

10 “(A) The total net income (or loss) shown
11 on such income statement.

12 “(B) The total net income (or loss) of for-
13 foreign entities included on such income statement
14 but not included on the consolidated tax return
15 of the specified entity for the taxable year.

16 “(C) The total of adjustments (other than
17 the item described in subparagraph (B)) reflect-
18 ing the difference between the income (or loss)
19 shown on such income statement and the item
20 described in subparagraph (D).

21 “(D) The total income (or loss) of all enti-
22 ties included on both such income statement
23 and the consolidated tax return of the specified
24 entity for the taxable year.

1 section (m) as subsection (n) and by inserting after sub-
2 section (l) the following new subsection:

3 “(m) FAILURE TO FILE INFORMATION RELATING TO
4 CERTAIN CORPORATE BOOK-TAX DIFFERENCES.—

5 “(1) IN GENERAL.—In the case of—

6 “(A) any failure by a specified entity to file
7 any statement required by the Secretary relat-
8 ing to the reconciliation of financial statements
9 with income tax returns, or

10 “(B) any failure by a specified entity—

11 “(i) to include any of the information
12 required to be shown on such a statement,
13 or

14 “(ii) to include materially accurate in-
15 formation on such a statement,

16 there shall be paid (on notice and demand by the
17 Secretary and in the same manner as tax) by the
18 specified entity an amount equal to the amount de-
19 termined under paragraph (2) for each such failure.

20 “(2) AMOUNT.—

21 “(A) CORPORATIONS.—In the case of a
22 corporation, the amount determined under this
23 paragraph is—

24 “(i) \$10,000 in the case of such a
25 specified entity with total assets at the end

1 of the taxable year of not more than
2 \$50,000,000,

3 “(ii) \$25,000 in the case of such a
4 specified entity with total assets at the end
5 of the taxable year of more than
6 \$50,000,000 but not more than
7 \$250,000,000,

8 “(iii) \$50,000 in the case of such a
9 specified entity with total assets at the end
10 of the taxable year of more than
11 \$250,000,000 but not more than
12 \$1,000,000,000, and

13 “(iv) \$100,000 in the case of such a
14 specified entity with total assets at the end
15 of the taxable year of more than
16 \$1,000,000,000.

17 “(B) OTHER ENTITIES.—In the case of a
18 specified entity other than a corporation, the
19 amount determined under this paragraph is—

20 “(i) \$5,000 in the case of such a spec-
21 ified entity with gross receipts for the tax-
22 able year of not more than \$10,000,000,

23 “(ii) \$10,000 in the case of such a
24 specified entity with gross receipts for the

1 taxable year of more than \$10,000,000 but
2 not more than \$50,000,000,

3 “(iii) \$25,000 in the case of such a
4 specified entity with gross receipts for the
5 taxable year of more than \$50,000,000 but
6 not more than \$250,000,000,

7 “(iv) \$50,000 in the case of such a
8 specified entity with gross receipts for the
9 taxable year of more than \$250,000,000
10 but not more than \$1,000,000,000, and

11 “(v) \$100,000 in the case of such a
12 specified entity with gross receipts for the
13 taxable year of more than \$1,000,000,000.

14 “(3) SPECIFIED ENTITY.—For purposes of this
15 subsection, the term ‘specified entity’ has the mean-
16 ing given such term under section 6104A.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this sections shall apply to returns and statements filed
19 after the date of the enactment of this Act.

20 **SEC. 5. STUDY ON BOOK-TAX DISCLOSURES.**

21 (a) IN GENERAL.—

22 (1) STUDY.—The Secretary of the Treasury, in
23 consultation with the Commissioner of the Securities
24 and Exchange Commission and the Joint Committee
25 on Taxation, shall conduct a study on the reconcili-

1 ation of differences between the financial income
2 statements of specified entities with income tax re-
3 turns.

4 (2) MATTERS INCLUDED IN STUDY.—The study
5 conducted under subsection (a) shall address—

6 (A) the need for additional reporting of
7 book-tax difference to—

8 (i) the Internal Revenue Service, and

9 (ii) the Securities and Exchange Com-
10 mission, and

11 (B) the benefits and risks of publicly dis-
12 closing such differences.

13 (b) REPORT.—Not later than 18 months after the
14 date of the enactment of this Act, the Secretary of the
15 Treasury shall submit to Congress a report on the matters
16 studied under subsection (a) together with any rec-
17 ommendations.

18 (c) SPECIFIED ENTITY.—For purposes of this sec-
19 tion, the term “specified entity” has the meaning given
20 such term under section 6104A of the Internal Revenue
21 Code of 1986.

○