

**DESCRIPTION OF H.R. 709,
THE “PREVENT TARGETING AT THE IRS ACT”**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on March 25, 2015

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 of H.R. 709, the “Prevent Targeting at the IRS Act,” a bill to provide for the termination of Internal Revenue Service employees who take certain official actions for political purposes, on March 25, 2015. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 709, the “Prevent Targeting at the IRS Act,”* (JCX-63-15), March 24, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

A. Termination of Employment of Internal Revenue Service Employees for Taking Official Actions for Political Purposes

Present Law

The IRS Restructuring and Reform Act of 1998 (the “Act”)² requires the IRS to terminate an employee for certain proven violations committed by the employee in connection with the performance of official duties. The violations include: (1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer’s home, personal belongings, or business assets; (2) providing a false statement under oath material to a matter involving a taxpayer; (3) with respect to a taxpayer, taxpayer representative, or other IRS employee, the violation of any right under the U.S. Constitution, or any civil right established under titles VI or VII of the Civil Rights Act of 1964, title IX of the Educational Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, sections 501 or 504 of the Rehabilitation Act of 1973 and title I of the Americans with Disabilities Act of 1990; (4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or a taxpayer representative; (5) assault or battery on a taxpayer or other IRS employee, but only if there is a criminal conviction or a final judgment by a court in a civil case, with respect to the assault or battery; (6) violations of the Internal Revenue Code, Treasury Regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating or harassing a taxpayer or other IRS employee; (7) willful misuse of section 6103 for the purpose of concealing data from a Congressional inquiry; (8) willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause; (9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause; and (10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

The Act provides non-delegable authority to the Commissioner to determine that mitigating factors exist, that, in the Commissioner’s sole discretion, mitigate against terminating the employee. The Act also provides that the Commissioner, in his sole discretion, may establish a procedure to determine whether an individual should be referred for such a determination by the Commissioner. The Treasury Inspector General (“IG”) is required to track employee terminations and terminations that would have occurred had the Commissioner not determined that there were mitigation factors and include such information in the IG’s annual report.

Description of Proposal

The proposal expands the scope of the violation concerning an IRS employee threatening to audit a taxpayer for the purpose of extracting personal gain or benefit to include actions taken for political purposes. The proposal requires the IRS to terminate an employee who, for political purposes or personal gain, undertakes official action with respect to a taxpayer or, depending on

² Pub. L. No. 105-206, sec. 1203(b), July 22, 1998.

the circumstances, fails to do so, delays action or threatens to perform, delay or omit such official action. Official actions for purposes of this provision include audits or examinations.

Effective Date

The proposal is effective on the date of enactment.

B. Estimated Revenue Effects

The proposal is estimated to have no effect on Federal fiscal year budget receipts for the period 2015-2025.