

**DESCRIPTION OF H.R. 9495, THE
“STOP TERROR-FINANCING AND TAX PENALTIES
ON AMERICAN HOSTAGES ACT”**

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup for September 11, 2024, of H.R. 9495, the “Stop Terror-Financing and Tax Penalties on American Hostages 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. 9495, the “Stop Terror-Financing and Tax Penalties on American Hostages Act.”* (JCX-37-24), September 9, 2024. 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. Postponement of Tax Deadlines and Abatement and Refund Procedures for Hostages and Individuals Wrongfully Detained Abroad

Present Law

General rules establishing Code deadlines

The United States tax system generally relies upon self-reporting and assessment. For most individuals, that self-reporting is in the form of an income tax return. Persons required to file income tax returns² must file such returns in the manner prescribed by the Secretary, with any payment due, in compliance with due dates established in the Code, if any, or by regulations. The Code includes a general rule that requires income tax returns of individuals to be filed on or before the 15th day of the fourth month following the end of the taxable year, but certain exceptions are provided both in the Code and in regulations.³

The Code also establishes the limitation periods within which the Internal Revenue Service (“IRS”) must perform its various administrative duties, such as assessment of taxes, interest, and any additions to tax or penalties related to the taxes and collection of such taxes, interest, and additions to tax. Taxes are generally required to be assessed within three years after a taxpayer’s return is filed, regardless of whether it was timely filed.⁴ Several exceptions may prevent the three-year limitation period from beginning, including failure to file a return or filing a false or fraudulent return with the intent to evade tax. In those cases, the tax may be assessed, or a proceeding in court for collection of such tax may commence without assessment, at any time.⁵ After the taxes are finally determined, whether it is through alternative payment methods, or enforced collection activity, the IRS must collect within 10 years from the date of assessment of tax.⁶ A refund or credit is authorized for a taxable year only if an overpayment exists, that is, if the amounts paid or deemed paid exceed the tax liability for that year and a claim for such amount is timely made.⁷

Special rules authorizing extensions of time for required events in the Code

In computing the time within which they must complete an action required or prescribed by the Code, persons who serve in the United States Armed Forces or in support of the Armed

² Section 6012 provides general rules identifying who must file an income tax return.

³ Secs. 6072 (prescribing deadlines for filing income tax returns) and 6081 (authorization of extensions of time to file, provided tax estimated to be due is paid with the application for extension).

⁴ Sec. 6501(a). Returns that are filed before the date they are due are deemed filed on the due date. See sec. 6501(b)(1) and (2).

⁵ Sec. 6501(c)(1), (2)c, and (3).

⁶ Sec. 6502.

⁷ Secs. 6402 (authority for refunding an overpayment) and 6511 (limitations period for filing a claim, including both a timely filing requirement and a lookback period to determine amounts eligible to be refunded).

Forces are entitled to disregard their period of service while in designated combat zones⁸ or serving overseas in a contingency operation designated as such by the Secretary of Defense,⁹ and the 180 days succeeding such period. For this purpose, periods of hospitalization that result from such service are included in the time that may be disregarded. The period that may be disregarded by the taxpayer is also disregarded in determinations by the IRS of the amount of any underpayment interest, penalty, additional amount, or addition to tax, and the amount of any credit or refund. Special rules apply for the period a person is in missing status,¹⁰ for certain limitations on refunds or collection actions,¹¹ as well as application of this provision to the spouse of the taxpayer.¹²

The Code specifies a number of actions for which the specified periods of time may generally be disregarded by persons who serve in the United States Armed Forces or in support of the Armed Forces described above. These actions include those required of taxpayers as well as those performed by the IRS. The former includes actions such as the filing any return of income, estate, gift, employment, or excise tax; filing a petition with the Tax Court for redetermination of a deficiency or for review of a decision rendered by the Tax Court; and actions related to refunds, such as filing a claim or bringing suit upon such claim. Actions by the IRS for which a deadline is extended include the assessment of any tax and related notices, such as notice and demand for payment or collection of the tax; the allowance of a refund; and bringing suit by the United States in respect of any liability in respect of any tax. In addition, the statute includes a residuary clause that permits the Secretary to designate any other act required or permitted under the internal revenue laws as within the scope of section 7508(a).¹³

Another provision of the Code, relating to disasters, mandates a 60-day extension and authorizes the Secretary to specify a period of up to one year that may be disregarded for performing various acts under the Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for eligible taxpayers. To qualify for this extension, an eligible taxpayer must be affected by a Federally declared disaster, a significant fire, or a terroristic or military action.¹⁴ The limited relief from deadlines under this disaster extension applies to the same list of actions for which the specified time is disregarded for persons in combat zones.

⁸ Sec. 112.

⁹ Sec. 7508.

¹⁰ Sec. 7508(d).

¹¹ Secs. 7508(b) and (e).

¹² Sec. 7508(c).

¹³ Sec. 7508(a)(1). In addition, Revenue Procedure 2018-58 supplements the list of postponed acts in section 7508(a)(1) and Treasury Regulation section 301.7508A-1(c)(1) with an additional list of time-sensitive acts.

¹⁴ Sec. 7508A.

Persons held hostage or wrongfully detained.

Neither the provision on service in a combat zone nor the rules on disaster relief address persons who fail to meet a tax filing or payment deadline that arises while they are unlawfully or wrongfully detained abroad. Federal law provides a set of criteria for determining whether a United States national¹⁵ is a wrongfully detained person. Such determination requires the involvement of the Hostage Recovery Fusion Cell, a multi-agency entity that addresses coordination of efforts to identify and recover those held hostage or wrongfully detained. Generally, if the person detained is held by a sovereign entity, determination of whether such person is wrongfully detained rests with the Secretary of State using prescribed criteria. Hostage status is determined by the Hostage Recovery Fusion Cell, under the leadership of the Federal Bureau of Investigation.¹⁶

Description of Proposal

The proposal adds a new Code provision that extends due dates for certain Federal tax matters for hostages and persons wrongfully detained by providing that the period of detention is disregarded in determining deadlines, interest, and penalties for the person, similar to the rules applicable to a person deployed in a combat zone. Similar to those rules, it extends such relief to the spouse of the hostage or detainee. The class of applicable persons is defined by reference to provisions of Title 22 on wrongfully detained persons or hostages.

Under the proposal, the period that may be disregarded in redetermining time limits is the entire period during which the person was held hostage or wrongfully detained during any taxable year ending after date of enactment. The list in present-law section 7508 identifying events for which a deadline is extended is used for the new proposal.

The proposal uses the term “applicable individual” to describe a person entitled to the extension. A person is an applicable individual if that person is either determined to be wrongfully detained under section 302 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act or is determined to be a hostage under findings of the Hostage Recovery Fusion Cell. The class of applicable individuals consists of persons who are identified on reports provided to the Secretary. The proposal requires the Secretary of State to provide a list of persons wrongfully detained, together with any identifying information available. The Attorney General, through the Hostage Recovery Fusion Cell, is required to provide a comparable list of persons believed to be hostages. The initial report is due January 1, 2025, with further reports due annually.

In addition to establishing a basis for relief from certain deadlines prescribed by the Code, the proposal also provides relief to persons who were assessed interest, penalties or

¹⁵ 22 U.S.C. 1741e defines “United States national” to mean citizens and certain noncitizens within the scope of 8 U.S.C. secs. 1102(a)(22) and 1408 and lawful permanent residents with significant ties to the United States.

¹⁶ Sections 302 and 304 of the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act, Pub. L. 116–260, div. FF, title III, §301, Dec. 27, 2020, 134 Stat. 3091, codified at 22 U.S.C. 1741 through 1741f.

additional amounts with respect to a tax liability for a failure to meet a deadline that arose during the period of detention for which extension is authorized. If the interest, penalties or fines were assessed before the person was identified as an applicable individual, the Secretary is directed to abate and refund any such amounts as overpayments in the same manner as would apply under section 6402.

The proposal also directs the Secretary of Treasury, in consultation with Secretary of State and the Hostage Recovery Fusion Cell, to initiate a program under which persons who were detained during an applicable period beginning January 1, 2021, and ending before date of enactment may seek refund of interest and penalties assessed with respect to tax years ending during the applicable period. This program is to be available to eligible individuals (persons who would have been applicable individuals but for the taxable years involved and their dependent or spouse), to be identified by the Secretary of State and Attorney General in reports similar to those required with respect to applicable individuals. A person may be both an applicable individual with respect to a taxable year ending after date of enactment and an eligible individual with respect to an earlier taxable year within the applicable period. Once such persons are identified, they are entitled to notice of the potential relief within 90 days from their release from captivity, or, if released prior to date of enactment, within 90 days after enactment.

After receiving notice of the program, eligible individuals are permitted to seek abatement or claim a refund for additions to tax and interest assessed or collected in respect of a tax liability attributable to the applicable period. The limitations period for filing a claim for refund or seeking abatement is extended, so that it expires no earlier than one year from the notice issued to the eligible individual. Furthermore, the look-back period for determining payments that may be within the scope of a refund claim is not applicable.

The proposal also requires the Secretary to make necessary updates to databases and information systems to ensure to ensure that expiration dates, interest and penalty accrual, and collection activities are suspended consistent with this proposal.

Effective Date

The proposal is generally effective for applicable individuals for taxable years ending after the date of enactment. The special program for notifications, refunds or abatements to eligible individuals for the applicable period from January 1, 2021, through date of enactment, is effective only for taxable years ending before the date of enactment.

B. Termination of Tax-Exempt Status of Terrorist Supporting Organizations

Present Law

Revocation of tax-exempt status, in general

Under present law, the IRS generally issues a letter revoking recognition of an organization's tax-exempt status only after (1) conducting an examination of the organization, (2) issuing a letter to the organization proposing revocation, and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of an organization described in section 501(c) or (d), the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization is no longer entitled to exemption.

Suspension of tax-exempt status of terrorist organizations (section 501(p))

To combat terrorism, the Federal government has designated a number of organizations as terrorist organizations or supporters of terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945.

The tax-exempt status of an organization that is exempt from tax under section 501(a) is suspended for the period during which the organization is designated or identified by Federal authorities as a terrorist organization or supporter of terrorism. An organization so designated or identified is also ineligible to apply for tax-exempt status under section 501(a).¹⁷ The period of suspension begins on the later of (1) the date the organization is first designated or identified or (2) November 11, 2003,¹⁸ and ends on the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive Order under which the designation or identification was made.¹⁹

For this purpose, a terrorist organization is an organization that has been designated or otherwise individually identified (1) as a terrorist organization or foreign terrorist organization under the authority of section 212(a)(3)(B)(vi)(II) or section 219 of the Immigration and Nationality Act; (2) in or pursuant to an Executive Order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive Order that refers to the provision and is issued under the authority of any Federal law if the organization is designated or otherwise individually identified in or pursuant to such Executive Order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or

¹⁷ Sec. 501(p)(1).

¹⁸ The date of enactment of section 501(p)). Pub. L. No. 108-121.

¹⁹ Sec. 501(p)(3).

supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).²⁰ During the period of suspension, no deduction for any contribution to a terrorist organization is allowed under the Code, including under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.²¹

No organization or other person may challenge, under section 7428 or any other provision of law, in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person, the following: the suspension of tax-exempt status, the ineligibility to apply for tax-exempt status, a designation or identification (described above), the timing of the period of suspension, or a denial of deduction (described above).²² The suspended organization may maintain other suits or administrative actions against the agency or agencies that designated or identified the organization, for the purpose of challenging such designation or identification (but not the suspension of tax-exempt status under this provision).

If the tax exemption of an organization is suspended and each designation and identification that has been made with respect to the organization is determined to be erroneous pursuant to the law or Executive Order making the designation or identification, and such erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, a credit or refund (with interest) with respect to such overpayment shall be made. If the operation of any law or rule of law (including *res judicata*) prevents the credit or refund at any time, the credit or refund may nevertheless be allowed or made if the claim for such credit or refund is filed before the close of the one-year period beginning on the date that the last remaining designation or identification with respect to the organization is determined to be erroneous.²³

The IRS is directed to update the listings of tax-exempt organizations to take account of an organization that has had its tax-exempt status suspended and to publish appropriate notice to taxpayers of the suspension of such organization's tax-exempt status and the fact that contributions to such organization are not deductible during the period of suspension.²⁴

As of this writing, there are nine organizations on the IRS's list of organizations suspended under section 501(p).²⁵

²⁰ Sec. 501(p)(2).

²¹ Sec. 501(p)(4).

²² Sec. 501(p)(5).

²³ Sec. 501(p)(6).

²⁴ Sec. 501(p)(7).

²⁵ See [https://www.irs.gov/charities-non-profits/charitable-organizations/suspensions-pursuant-to-code-section-501p#:~:text=Under%20section%20501\(p\)%20of,under%20section%20501\(p\)](https://www.irs.gov/charities-non-profits/charitable-organizations/suspensions-pursuant-to-code-section-501p#:~:text=Under%20section%20501(p)%20of,under%20section%20501(p)) (last accessed on September 5, 2024).

Description of Proposal

In general

The proposal extends section 501(p) such that it applies not only to terrorist organizations (as under present law) but also to terrorist supporting organizations. The proposal treats a terrorist supporting organization as a terrorist organization described in section 501(p)(2). The effect of this treatment is that the tax-exempt status of a terrorist supporting organization, and the eligibility of such organization to apply for tax-exempt status, are suspended. The period of suspension of a terrorist supporting organization is treated as beginning on the date the Secretary designates the organization as a terrorist supporting organization and ending on the date the Secretary rescinds the designation, as described below.

A terrorist supporting organization is any organization that is designated by the Secretary as having provided, during the three-year period ending on the date of such designation, material support or resources to a terrorist organization or terrorist supporting organization described in section 501(p) in excess of a *de minimis* amount. For this purpose, the term “material support or resources” is defined by reference to section 2339B of Title 18 of the U.S. Code.²⁶

Notice requirement

Before designating an organization as a terrorist supporting organization, the Secretary is required to mail to the most recent mailing address provided to the IRS on its most recent annual information return or notice filed with the IRS (or subsequently submitted form indicating a change of address) a written notice. The notice must include: (1) a statement that the Secretary will designate the organization as a terrorist supporting organization unless the organization satisfies the requirements outlined in the following paragraph (relating to opportunity to cure), (2) the name of the organization or organizations with respect to which the Secretary has determined such organization provided material support or resources, and (3) a description of such material support or resources, to the extent consistent with national security and law enforcement interests.

Opportunity to cure

In the case of such a notice, the Secretary shall, at the end of the 90-day period beginning on the date the notice was sent, designate the organization as a terrorist supporting organization if, and only if, the organization has not during such period: (1) demonstrated to the satisfaction of the Secretary that the organization did not provide the material support or resources, or (2) made reasonable efforts to have such support or resources returned to such organization and certified in

²⁶ Section 2339B defines “material support or resources” by reference to section 2339A of Title 18 of the U.S. Code. Section 2339A, in turn, provides that material support or resources means “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials.” The term “training” is defined as “instruction or teaching designed to impart a specific skill, as opposed to general knowledge.” The term “expert advice or assistance” is defined as “advice or assistance derived from scientific, technical or other specialized knowledge.”

writing to the Secretary that such organization will not provide any further support or resources to a terrorist organization or terrorist supporting organization described in section 501(p)(2). Such a certification is not valid if the organization making the certification has provided any other such certification during the preceding five years.

Rescission of designation

The Secretary shall rescind a designation if and only if: (1) the Secretary determines that the designation was erroneous; (2) after the Secretary receives a certification from an organization that it did not receive the notice described above, (a) the Secretary determines that it is reasonable to believe that the organization did not receive the notice, and (b) the organization satisfies the above requirements relating to curing a deficiency (that is, the organization demonstrates that it did not provide material support or resources or made reasonable efforts to have such support or resources returned and makes the required certification); or (3) the Secretary determines that the periods of suspension for all organizations to which the material support or resources were provided have ended. The certification described in (2) above is not treated as valid if the organization making the certification has provided any other such certification during the preceding five years.

Administration and judicial review of designation

Notwithstanding the present-law rule that disallows a challenge to a designation as a terrorist organization in certain administrative or judicial proceedings (section 501(p)(5)), in the case of the designation of an organization as a terrorist supporting organization, a dispute regarding such designation is subject to resolution by the IRS Independent Office of Appeals (“IRS Appeals”) under section 7803(e) (which describes IRS Appeals). The dispute is subject to IRS Appeals resolution in the same manner as if the designation were made by the IRS. In addition, notwithstanding section 501(p)(5), the United States district courts shall have exclusive jurisdiction to review a final determination with respect to an organization’s designation as a terrorist supporting organization. In the case of a determination that was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act), such information may be submitted to the reviewing court *ex parte* and *in camera*. For purposes of such judicial review, a determination shall not fail to be treated as a final determination merely because the organization fails to utilize the dispute resolution process of IRS Appeals described above.

Effective Date

The proposal is effective for designations made after the date of enactment in taxable years ending after such date.

C. Estimated Revenue Effects of the Proposal

The proposal is estimated to have a negligible effect on Federal fiscal year budget receipts.