

115TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to reform provisions relating to whistleblowers.

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IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend the Internal Revenue Code of 1986 to reform provisions relating to whistleblowers.

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 “IRS Whistleblower Im-  
5 provements Act of 2017”.

6 **SEC. 2. WHISTLEBLOWER REFORMS.**

7 (a) MODIFICATIONS TO DISCLOSURE RULES FOR  
8 WHISTLEBLOWERS.—

1           (1) IN GENERAL.—Section 6103(k) of the In-  
2           ternal Revenue Code of 1986 is amended by adding  
3           at the end the following new paragraph:

4           “(13) DISCLOSURE TO WHISTLEBLOWERS.—

5           “(A) IN GENERAL.—The Secretary may  
6           disclose, to any individual providing information  
7           relating to any purpose described in paragraph  
8           (1) or (2) of section 7623(a), return informa-  
9           tion related to the investigation of any taxpayer  
10          with respect to whom the individual has pro-  
11          vided such information, but only to the extent  
12          that such disclosure is necessary in obtaining  
13          information, which is not otherwise reasonably  
14          available, with respect to the correct determina-  
15          tion of tax liability for tax, or the amount to be  
16          collected with respect to the enforcement of any  
17          other provision of this title.

18          “(B) UPDATES ON WHISTLEBLOWER IN-  
19          VESTIGATIONS.—The Secretary shall disclose to  
20          an individual providing information relating to  
21          any purpose described in paragraph (1) or (2)  
22          of section 7623(a) the following:

23                  “(i) Not later than 30 days after a  
24                  case for which the individual has provided  
25                  information has been referred for an audit

1 or examination, a notice with respect to  
2 such referral.

3 “(ii) Not later than 30 days after a  
4 taxpayer with respect to whom the indi-  
5 vidual has provided information has made  
6 a payment of tax with respect to tax liabil-  
7 ity to which such information relates, a no-  
8 tice with respect to such payment.

9 “(iii) Subject to such requirements  
10 and conditions as are prescribed by the  
11 Secretary, upon a written request by such  
12 individual—

13 “(I) information on the status  
14 and stage of any investigation or ac-  
15 tion related to such information, and

16 “(II) in the case of a determina-  
17 tion of the amount of any award  
18 under section 7623(b), the reasons for  
19 such determination.

20 Clause (iii) shall not apply to any information  
21 if the Secretary determines that disclosure of  
22 such information would seriously impair Fed-  
23 eral tax administration. Information described  
24 in clauses (i), (ii), and (iii) may be disclosed to  
25 a designee of the individual providing such in-

1 formation in accordance with guidance provided  
2 by the Secretary.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) CONFIDENTIALITY OF INFORMA-  
5 TION.—Section 6103(a)(3) of such Code is  
6 amended by striking “subsection (k)(10)” and  
7 inserting “paragraph (10) or (13) of subsection  
8 (k)”.

9 (B) PENALTY FOR UNAUTHORIZED DIS-  
10 CLOSURE.—Section 7213(a)(2) of such Code is  
11 amended by striking “(k)(10)” and inserting  
12 “(k)(10) or (13)”.

13 (C) COORDINATION WITH AUTHORITY TO  
14 DISCLOSE FOR INVESTIGATIVE PURPOSES.—  
15 Section 6103(k)(6) of such Code is amended by  
16 adding at the end the following new sentence:  
17 “This paragraph shall not apply to any disclo-  
18 sure to an individual providing information re-  
19 lating to any purpose described in paragraph  
20 (1) or (2) of section 7623(a) which is made  
21 under paragraph (13)(A).”.

22 (b) PROTECTION AGAINST RETALIATION.—Section  
23 7623 of the Internal Revenue Code of 1986 is amended  
24 by adding at the end the following new subsection:

1           “(c) CIVIL ACTION TO PROTECT AGAINST RETALIA-  
2 TION CASES.—

3           “(1) ANTI-RETALIATION WHISTLEBLOWER PRO-  
4 TECTION FOR EMPLOYEES.—No employer or any of-  
5 ficer, employee, contractor, subcontractor, or agent  
6 of such employer may discharge, demote, suspend,  
7 threaten, harass, or in any other manner discrimi-  
8 nate against an employee in the terms and condi-  
9 tions of employment (including through an act in the  
10 ordinary course of such employee’s duties) in re-  
11 prisal for any lawful act done by the employee—

12           “(A) to provide information, cause infor-  
13 mation to be provided, or otherwise assist in an  
14 investigation regarding underpayment of tax or  
15 any conduct which the employee reasonably be-  
16 lieves constitutes a violation of the internal rev-  
17 enue laws or any provision of Federal law relat-  
18 ing to tax fraud, when the information or as-  
19 sistance is provided to the Internal Revenue  
20 Service, the Secretary of Treasury, the Treas-  
21 ury Inspector General for Tax Administration,  
22 the Comptroller General of the United States,  
23 the Department of Justice, the United States  
24 Congress, a person with supervisory authority  
25 over the employee, or any other person working

1 for the employer who has the authority to inves-  
2 tigate, discover, or terminate misconduct, or

3 “(B) to testify, participate in, or otherwise  
4 assist in any administrative or judicial action  
5 taken by the Internal Revenue Service relating  
6 to an alleged underpayment of tax or any viola-  
7 tion of the internal revenue laws or any provi-  
8 sion of Federal law relating to tax fraud.

9 “(2) ENFORCEMENT ACTION.—

10 “(A) IN GENERAL.—A person who alleges  
11 discharge or other reprisal by any person in vio-  
12 lation of paragraph (1) may seek relief under  
13 paragraph (3) by—

14 “(i) filing a complaint with the Sec-  
15 retary of Labor, or

16 “(ii) if the Secretary of Labor has not  
17 issued a final decision within 180 days of  
18 the filing of the complaint and there is no  
19 showing that such delay is due to the bad  
20 faith of the claimant, bringing an action at  
21 law or equity for de novo review in the ap-  
22 propriate district court of the United  
23 States, which shall have jurisdiction over  
24 such an action without regard to the  
25 amount in controversy.

1 “(B) PROCEDURE.—

2 “(i) IN GENERAL.—An action under  
3 subparagraph (A)(ii) shall be governed  
4 under the rules and procedures set forth in  
5 section 42121(b) of title 49, United States  
6 Code.

7 “(ii) EXCEPTION.—Notification made  
8 under section 42121(b)(1) of title 49,  
9 United States Code, shall be made to the  
10 person named in the complaint and to the  
11 employer.

12 “(iii) BURDENS OF PROOF.—An ac-  
13 tion brought under subparagraph (A)(ii)  
14 shall be governed by the legal burdens of  
15 proof set forth in section 42121(b) of title  
16 49, United States Code, except that in ap-  
17 plying such section—

18 “(I) ‘behavior described in para-  
19 graph (1)’ shall be substituted for ‘be-  
20 havior described in paragraphs (1)  
21 through (4) of subsection (a)’ each  
22 place it appears in paragraph (2)(B)  
23 thereof, and

24 “(II) ‘a violation of paragraph  
25 (1)’ shall be substituted for ‘a viola-





1                   prisal, including litigation costs, expert wit-  
2                   ness fees, and reasonable attorney fees.

3                   “(4) RIGHTS RETAINED BY EMPLOYEE.—Noth-  
4                   ing in this section shall be deemed to diminish the  
5                   rights, privileges, or remedies of any employee under  
6                   any Federal or State law, or under any collective  
7                   bargaining agreement.

8                   “(5) NONENFORCEABILITY OF CERTAIN PROVI-  
9                   SIONS WAIVING RIGHTS AND REMEDIES OR REQUIR-  
10                  ING ARBITRATION OF DISPUTES.—

11                  “(A) WAIVER OF RIGHTS AND REM-  
12                  EDIES.—The rights and remedies provided for  
13                  in this subsection may not be waived by any  
14                  agreement, policy form, or condition of employ-  
15                  ment, including by a predispute arbitration  
16                  agreement.

17                  “(B) PREDISPUTE ARBITRATION AGREE-  
18                  MENTS.—No predispute arbitration agreement  
19                  shall be valid or enforceable, if the agreement  
20                  requires arbitration of a dispute arising under  
21                  this subsection.”.

22                  (c) EFFECTIVE DATE.—

23                  (1) IN GENERAL.—The amendments made by  
24                  subsection (a) shall apply to disclosures made after  
25                  the date of the enactment of this Act.

1           (2) CIVIL PROTECTION.—The amendment made  
2           by subsection (b) shall take effect on the date of the  
3           enactment of this Act.