March 20, 2025

Dear Members of Congress,

We, the undersigned organizations, are writing in support of H.J.Res.65, Rep. Glenn Grothman's (R-Wis.) CRA to nullify a Biden-era Internal Revenue Service (IRS) rule that significantly weakened a taxpayer protection in section 6751(b) of the tax code.

Instead of getting their immediate supervisor's approval to impose penalties on taxpayers as the code dictates, the Biden rule allows agents to shop around for sympathetic supervisors anywhere in the building.

This Biden rule makes it easier for IRS bureaucrats to levy substantial fines and penalties on taxpayers. All lawmakers should support the CRA to repeal this disastrous rule.

A weakened section 6751(b) makes it easier for the IRS to target taxpayers and could result in a taxpayer having their assets seized by the agency. Further, it exacerbates existing problems with the IRS including its inability to help taxpayers, its lack of respect for due process, and its abuse of power.

What is Section 6751(b)?

After countless IRS abuses were exposed in 1998, Congress passed the IRS Restructuring and Reform Act (RRA 98) which reined in the agency and instituted numerous taxpayer protections. One of these protections, Internal Revenue Code Section 6751(b), prohibits IRS agents from levying a fine or penalty without written approval of that agent's immediate supervisor. Specifically:

> *"No penalty… shall be assessed unless the initial determination of such* ***assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher-level official as the*** *Secretary may designate."*

Democrats have repeatedly proposed repealing this provision. H.R 5376, the house-passed version of the Build Back Better Act, would have repealed this provision in Section 138403 of the Rules Committee Print. The Senate version of the BBB Act, as released by Senate Finance Committee Chairman Ron Wyden (D-Ore.), retained this provision. A repeal proposal was also included in President Biden's last budget.

After these attempts failed and Democrats lost the presidency, in December 2024, the IRS released a final rule redefining the meaning of "immediate supervisor" from someone who an agent reports to, to "any individual with responsibility to review another individual's proposal of penalties." Effectively, this definition is so broad that IRS agents can get approval from virtually any other employee.

A weakened Sec. 6751(b) harms taxpayers.

While the protection granted by Sec. 6751(b) is relatively straightforward, its importance to taxpayers is substantial. As it stands, the IRS has repeatedly failed to follow this law when it comes to fairly applying Sec. 6751(b), leading to successful lawsuits costing the agency millions of dollars. If anything, this provision should be strengthened, not weakened.

Penalties should not be imposed on a taxpayer at the behest of a single IRS agent and his/her success at finding one of 100,000 employees who is friendly to their cause. Direct supervisors can be helpful in weeding out honest mistakes and, perhaps, identifying agents who are overzealous and improperly doing their job. Granting a single agent (and his/her ally) the power to penalize a taxpayer creates the potential for abusing this power based on personal, political, or religious reasons.

A weakened Sec. 6751(b) is particularly harmful to low-income taxpayers.

NTA research studies found that IRS agents were intentionally disregarding rules and regulations to impose two-year bans of the Earned Income Tax Credit (EITC). In 2019, in 54 percent of cases, IRS employees did not obtain supervisory approval before imposing the penalty and, in 84 percent of cases, notices to the taxpayer did not contain adequate information on why they were banned from using the EITC.

If IRS agents can legally avoid receiving immediate supervisory approval, low-income Americans will be penalized more often and without meaningful recourse.

A weakened Sec. 6751(b) exacerbates existing problems with the IRS.

Taxpayers are already all too often left feeling powerless in the face of IRS investigations and penalties. A weakened Sec. 6751(b) makes this problem worse.

For instance, a National Taxpayer Advocate (NTA) report notes that the IRS frequently fails to provide basic information and instead provides confusing and inaccurate information when issuing taxpayers with a notice for failing to follow the law.

Further, the IRS has not been a good steward of the power they hold, making this policy even more concerning. The Obama IRS was caught unfairly denying conservative groups non-profit status ahead of the 2012 election.

In 2021, more than 400,000 Americans' private taxpayer files were stolen and several Americans' personal tax information was published by the progressive news outlet ProPublica to push their own political agenda.

A 2017 Treasury Inspector General for Tax Administration (TIGTA) report found that the IRS routinely skirted or ignored due process requirements when investigating taxpayers. The inspector general uncovered violations of the Eighth Amendment and failure to provide the taxpayer of their basic rights.

In 2023, an IRS agent visited Taibbi's home "unannounced and unprompted" at the very moment he was testifying to congress regarding government abuse of power.

Given the fact that the IRS already abuses its power, a weakened section 6751(b) empowers bad actors at the agency. It also empowers the agency in its existing incompetence.

A weakened section 6751(b) leaves taxpayers vulnerable to the whims of a determined IRS agent and empowers the agency to further target and harass taxpayers. Instead, lawmakers should look to limit the power of the IRS and ensure taxpayers are protected from government overreach. To start, Congress should pass H.J.Res.65, the CRA repealing this Biden-era IRS rule.

Onward,

Grover Norquist
President, Americans for Tax Reform

Paul Teller
Executive Vice President, Advancing American Freedom

Saulius "Saul" Anuzis
President, American Association of Senior Citizens

Steve Pociask
Chief Executive Officer, American Consumer Institute

Brent Gardner
Chief Government Affairs Officer, Americans for Prosperity

Gerard Scimeca
Chairman, CASE

Ryan Ellis
President, Center for a Free Economy

Jeffrey Mazzella
President, Center for Individual Freedom

George Landrith
President, Frontiers of Freedom

Brian Norman
Director of State Affairs, Goldwater Institute

Cameron Sholty
Executive Director, Heartland Impact

U.S. Chamber of Commerce

60 PLUS
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Interim Director, Shareholder Advocacy Forum

Karen Kerrigan
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