114TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
114–67

ENSURING TAX EXEMPT ORGANIZATIONS THE RIGHT TO APPEAL ACT

APRIL 13, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 1314]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1314) to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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49–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ensuring Tax Exempt Organizations the Right to Appeal Act".

SEC. 2. ADMINISTRATIVE APPEAL RELATING TO ADVERSE DETERMINATIONS OF TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

(a) IN GENERAL.—Section 7123 of the Internal Revenue Code of 1986 is amended by adding at the end of the following:

"(c) ADMINISTRATIVE APPEAL RELATING TO ADVERSE DETERMINATION OF TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe procedures under which an organization which claims to be described in section 501(c) may request an administrative appeal (including a conference relating to such appeal if requested by the organization) to the Internal Revenue Service Office of Appeals of an adverse determination described in paragraph (2).

"(2) ADVERSE DETERMINATIONS.—For purposes of paragraph (1), an adverse determination is described in this paragraph if such determination is adverse to an organization with respect to—

"(A) the initial qualification or continuing qualification of the organization as exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

"(B) the initial classification or continuing classification of the organization as a private foundation under section 509(a), or

"(C) the initial classification or continuing classification of the organization as a private operating foundation under section 4942(j)(3).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made on or after May 19, 2014.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 1314, reported by the Committee on Ways and Means, requires the Treasury Secretary to establish procedures under which an organization claiming exemption from tax under section 501(c), or certain other provisions, of the Internal Revenue Code (the "Code") but receiving an adverse determination as to either initial classification or a continuing classification may request an administrative appeal to the Internal Revenue Service ("IRS") Office of Appeals. The bill would be effective for appeals of determinations made after May 19, 2014.

B. BACKGROUND AND NEED FOR LEGISLATION

Through its investigation of IRS targeting of certain tax-exempt organizations, the Committee learned that section 501(c) organizations selected for review and later denied by the IRS Exempt Organizations Technical office in Washington, D.C., rather than the field office in Cincinnati, were being denied their right to an independent appeal as required by the Internal Revenue Service Restructuring and Reform Act of 1998 (Pub. L. 105–206).

When this abuse was disclosed, the IRS issued interim guidance on May 19, 2014, to provide that all groups subject to an adverse determination would be granted a right to appeal. H.R. 1314 codifies that guidance.

C. Legislative History

Background

H.R. 1314 was introduced on March 3, 2015, and was referred to the Committee on Ways and Means. The same legislation, H.R. 5419, passed the House of Representatives in the 113th Congress under suspension of the rules by voice vote on September 16, 2014.

Committee action

The Committee on Ways and Means marked up H.R. 1314, the "Ensuring Tax Exempt Organizations the Right to Appeal Act," on March 25, 2015, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The need for reform regarding the determination of the tax-exempt status of certain organizations was discussed during multiple Committee hearings during the 113th Congress:

- Oversight Subcommittee Hearing on the IRS Operations and the 2014 Tax Return Filing Season (May 7, 2014).
- Full Committee Hearing with IRS Commissioner Koskinen (June 20, 2014).

II. EXPLANATION OF THE BILL

A. Require the Secretary of the Treasury To Describe Administrative Appeals Procedures Relating to Adverse Determinations of Tax-Exempt Status of Certain Organizations (sec. 2 of the bill and sec. 7123 of the Code)

PRESENT LAW

Section 501(c) organizations

Section 501(c) describes certain organizations that are exempt from Federal income tax under section 501(a). Section 501(c) organizations include, among others, charitable organizations (501(c)(3)), social welfare organizations (501(c)(4)),[1] labor organizations (501(c)(5)), and trade associations and business leagues (501(c)(6)). In addition to being exempt from Federal income tax, section 501(c)(3) organizations generally are eligible to receive tax

[1] Section 501(c)(4) provides tax exemption for civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, and no part of the net earnings of which inures to the benefit of any private shareholder or individual. An organization is operated exclusively for the promotion of social welfare if it is engaged primarily in promoting in some way the common good and general welfare of the people of a community. Treas. Reg. sec. 1.501(c)(4)–1(a)(2). The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office; however, social welfare organizations are permitted to engage in political activity so long as the organization remains engaged primarily in activities that promote social welfare. The lobbying activities of a social welfare organization generally are not limited. An organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations that are operated for profit.

deductible contributions. Section 501(c)(3) organizations are subject to operational rules and restrictions that do not apply to many other types of tax-exempt organizations.

Application for tax exemption

Section 501(c)(3) organizations

Section 501(c)(3) organizations (with certain exceptions) are required to seek formal recognition of tax-exempt status by filing an application with the IRS(Form 1023).[2] In response to the application, the IRS issues a determination letter or ruling either recognizing the applicant as tax-exempt or not. Certain organizations are not required to apply for recognition of tax-exempt status in order to qualify as tax-exempt under section 501(c)(3) but may do so. These organizations include churches, certain church-related organizations, organizations (other than private foundations) the gross receipts of which in each taxable year are normally not more than $5,000, and organizations (other than private foundations) subordinate to another tax-exempt organization that are covered by a group exemption letter.

A favorable determination by the IRS on an application for recognition of tax-exempt status will be retroactive to the date that the section 501(c)(3) organization was created if it files a completed Form 1023 within 15 months of the end of the month in which it was formed.[3] If the organization does not file Form 1023 or files a late application, it will not be treated as tax-exempt under section 501(c)(3) for any period prior to the filing of an application for recognition of tax exemption.[4] Contributions to section 501(c)(3) organizations that are subject to the requirement that the organization apply for recognition of tax-exempt status generally are not deductible from income, gift, or estate tax until the organization receives a determination letter from the IRS.[5]

Information required on Form 1023 includes, but is not limited to: (1) a detailed statement of actual and proposed activities; (2) compensation and financial information regarding officers, directors, trustees, employees, and independent contractors; (3) a statement of revenues and expenses for the current year and the three preceding years (or for the years of the organization's existence, if less than four years); (4) a balance sheet for the current year; (5) a description of anticipated receipts and contemplated expenditures; (6) a copy of the articles of incorporation, trust document, or other organizational or enabling document; (7) organization bylaws (if any); and (8) information about previously filed Federal income tax and exempt organization returns, if applicable.

A favorable determination letter issued by the IRS will state that the application for recognition of tax exemption and supporting doc-

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[2] See sec. 508(a).

[3] Pursuant to Treas. Reg. sec. 301.9100–2(a)(2)(iv), organizations are allowed an automatic 12-month extension as long as the application for recognition of tax exemption is filed within the extended, *i.e.*, 27-month, period. The IRS also may grant an extension beyond the 27-month period if the organization is able to establish that it acted reasonably and in good faith and that granting relief will not prejudice the interests of the government. Treas. Reg. secs. 301.9100–1 and 301.9100–3.

[4] Treas. Reg. sec. 1.508–1(a)(1).

[5] Sec. 508(d)(2)(B). Contributions made prior to receipt of a favorable determination letter may be deductible prior to the organization's receipt of such favorable determination letter if the organization has timely filed its application to be recognized as tax-exempt. Treas. Reg. secs. 1.508–1(a) and 1.508–2(b)(1)(i)(b).

uments establish that the organization submitting the application meets the requirements of section 501(c)(3) and will classify (as either an adverse or definitive ruling) the organization as either a public charity or a private foundation.

Organizations that are classified as public charities (or as private operating foundations) and not as private nonoperating foundations may cease to satisfy the conditions that entitled the organization to such status. The IRS makes an initial determination of public charity or private foundation status (either a definitive ruling, or an advance ruling generally effective for five years and then reviewed again by the IRS) that is subsequently monitored by the IRS through annual return filings. The IRS periodically announces in the Internal Revenue Bulletin a list of organizations that have failed to establish, or have been unable to maintain, their status as public charities or as private operating foundations, and that become private nonoperating foundations.

If the IRS denies an organization's application for recognition of exemption under section 501(c)(3), the organization may seek a declaratory judgment regarding its tax status.[6] Prior to utilizing the declaratory judgment procedure, the organization must have exhausted all administrative remedies available to it within the IRS.

Other section 501(c) organizations

Most section 501(c) organizations—including organizations described within sections 501(c)(4) (social welfare organizations, etc.), 501(c)(5) (labor organizations, etc.), or 501(c)(6) (business leagues, etc.)—are not required to provide notice to the Secretary that they are requesting recognition of exempt status. Rather, organizations are exempt under these provisions if they satisfy the requirements applicable to such organizations. However, in order to obtain certain benefits such as public recognition of tax-exempt status, exemption from certain State taxes, and nonprofit mailing privileges, such organizations voluntarily may request a formal recognition of exempt status by filing a Form 1024.

If such an organization voluntarily requests a determination letter by filing Form 1024 within 27 months of the end of the month in which it was formed, its determination of exempt status, once provided, generally will be effective as of the organization's date of formation.[7] If, however, the organization files Form 1024 after the 27-month deadline has passed, its exempt status will be formally recognized only as of the date the organization filed Form 1024.

The declaratory judgment process available to organizations seeking exemption under section 501(c)(3) is not available to organizations seeking exemption under other subsections of the Code, including sections 501(c)(4), 501(c)(5), and 501(c)(6).

Revocation (and suspension) of exempt status

An organization that has received a favorable tax-exemption determination from the IRS generally may continue to rely on the determination as long as there is not a "material change, inconsistent with exemption, in the character, the purpose, or the method of op-

[6] Sec. 7428.
[7] Rev. Proc. 2015–9, sec. 11, 2015–2 I.R.B. 249.

eration of the organization, or a change in the applicable law."[8] A ruling or determination letter concluding that an organization is exempt from tax may, however, be revoked or modified: (1) by notice from the IRS to the organization to which the ruling or determination letter was originally issued; (2) by enactment of legislation or ratification of a tax treaty; (3) by a decision of the United States Supreme Court; (4) by issuance of temporary or final Regulations by the Treasury Department; (5) by issuance of a revenue ruling, a revenue procedure, or other statement in the Internal Revenue Bulletin; or (6) automatically, in the event the organization fails to file a required annual return or notice for three consecutive years.[9] A revocation or modification of a determination letter or ruling may be retroactive if, for example, there has been a change in the applicable law, the organization omitted or misstated a material fact, or the organization has operated in a manner materially different from that originally represented.[10]

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 a section 501(c)(3) organization, 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 no longer is entitled to exemption.

Upon revocation of tax-exemption or change in the classification of an organization (*e.g.*, from public charity to private foundation status), the IRS publishes an announcement of such revocation or change in the Internal Revenue Bulletin. Contributions made to organizations by donors who are unaware of the revocation or change in status ordinarily will be deductible if made on or before the date of publication of the announcement.

The IRS may suspend the tax-exempt status of an organization for any period during which an organization is designated or identified by U.S. authorities as a terrorist organization or supporter of terrorism.[11] Such an organization also is ineligible to apply for tax exemption. The period of suspension runs from the date the organization is first designated or identified to 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. During the period of suspension, no deduction is allowed for any contribution to a terrorist organization.

Appeals of adverse determinations or revocations of exempt status

Adverse determination

If the IRS reaches the conclusion that an organization does not qualify for exempt status, the exempt organizations Rulings and

[8] *Ibid.*
[9] *Ibid.*, sec. 12.
[10] *Ibid.*
[11] Sec. 501(p) (enacted by Pub. L. No. 108–121, sec. 108(a), effective for designations made before, on, or after November 11, 2003).

Agreements unit ("EO Rulings and Agreements") or the exempt organizations technical unit located in Washington, D.C. ("EO Technical") will issue a proposed adverse determination letter or ruling. In either case, the proposed adverse determination will advise the taxpayer of its opportunity to appeal the determination by requesting Appeals Office consideration.[12]

If an organization protests an adverse determination, EO Rulings and Agreements (if it maintains its adverse position) will forward the protest and the application case file to the Appeals Office, which will consider the organization's appeal. If the Appeals Office agrees with EO Rulings and Agreements, it will issue a final adverse determination letter or, if a conference was requested, schedule a conference with the organization. At the end of the conference process, the Appeals Office will issue a final adverse determination letter or a favorable determination letter.[13]

Under interim guidance issued on May 19, 2014, by the Acting Director, Rulings and Agreements (Exempt Organizations), an organization that receives a proposed adverse determination with regard to an application that has been transferred to EO Technical (or its successor) may request a conference with EO Technical in addition to requesting Appeals Office Consideration.[14] Prior to that time, however, a determination letter issued on the basis of technical advice from EO Technical could not be appealed to the Appeals Office on issues that were the subject of the technical advice.[15] The procedure described in the interim guidance has since been added to the IRS Revenue Procedure relating to exempt status determinations.[16]

Revocation or modification of a determination

As stated above, a determination letter or ruling recognizing exemption may be revoked or modified. In the case of a revocation or modification of a determination letter or ruling, the appeal and conference procedures are essentially the same as described above in connection with initial determinations of exempt status.[17]

REASONS FOR CHANGE

The Committee found that IRS procedures allowed an organization that received an adverse determination regarding its tax-exempt status to file an appeal with the IRS Office of Appeals only if the determination was provided by the EO Determinations unit. An organization that received an adverse determination from the EO Technical unit in Washington, D.C. could not file an appeal with the Office of Appeals. As a result, some organizations were not afforded the same administrative protections as others. The Committee believes that all organizations seeking tax-exempt status should be entitled to the same impartial application review process, including the right to appeal an adverse determination to the IRS Office of Appeals, and that this right should be safeguarded by law.

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[12] Rev. Proc. 2015–9, 2015–2 I.R.B. 249, secs. 5 and 7.
[13] *Ibid*., sec. 7.
[14] IRS Memorandum, "*Appeals Office Consideration of All Proposed Adverse Rulings Relating to Tax-Exempt Status from EO Technical by Request*," May 19, 2014.
[15] Rev. Proc. 2014–9, 2014–2 I.R.B. 281, sec. 7.
[16] Rev. Proc. 2015–9, 2015–2 I.R.B. 249, secs. 5 and 7.
[17] *Ibid*., sec. 12.

EXPLANATION OF PROVISION

The provision effectively codifies the May 19, 2014, interim guidance by requiring the Secretary to describe procedures under which a section 501(c) organization may request an administrative appeal (including a conference relating to such an appeal, if requested) to the Internal Office of Appeals of an adverse determination. For this purpose, an adverse determination includes a determination adverse to the organization relating to:

1. the initial qualification or continuing classification of the organization as exempt from tax under section 501(a);

2. the initial qualification or continuing classification of the organization as an organization described in section 170(c)(2) (generally describing certain corporations, trusts, community chests, funds, and foundations that are eligible recipients of tax deductible contributions);

3. the initial or continuing classification of the organization as a private foundation under section 509(a); or

4. the initial or continuing classification of the organization as a private operating foundation under section 4942(j)(3).

EFFECTIVE DATE

The provision is effective for determinations made after May 19, 2014.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 1314, the "Ensuring Tax Exempt Organizations the Right to Appeal Act," on March 25, 2015.

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 1314, as amended, was ordered favorably reported to the House of Representatives by a voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 1314, as reported.

The bill, as reported, is estimated to have a negligible effect on Federal budget receipts for fiscal years 2015–2025.

Pursuant to clause 8 of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not "major legislation" for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that there are no new or increased tax expenditures.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 10, 2015.

Hon. Paul Ryan,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1314, the Ensuring Tax Exempt Organizations the Right to Appeal Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

Keith Hall,
Director.

Enclosure.

H.R. 1314—Ensuring Tax Exempt Organizations the Right to Appeal Act

H.R. 1314 would amend the Internal Revenue Code of 1986 to provide a procedure for organizations requesting 501(c) (tax exempt non-profit status) recognition to appeal decisions made by the Internal Revenue Service (IRS). CBO estimates that implementing the legislation would have no significant cost over the next five years. CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The bill would enact provisions similar to the interim guidance proposed by the IRS on May 19, 2014, under which an entity that fails to receive tax exempt status may request an administrative appeal. Because the legislation would codify the agency's current practices CBO estimates that implementing this bill would not significantly increase administrative costs.

CBO and JCT have determined that H.R. 1314 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 1314 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4). The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

The following statement is made pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives. Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under

section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses, within the meaning of the rule.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169).

H. Disclosure of Directed Rule Makings

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. Text of Existing Law Amended or Repealed by the Bill, as Reported

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

Text of Existing Law Amended or Repealed by the Bill, as Reported

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

SECTION 7123 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.

(a) Early Referral to Appeals Procedures.—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination

or collection division to the Internal Revenue Service Office of Appeals.

(b) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—

(1) MEDIATION.—The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(2) ARBITRATION.—The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 7123 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.

(a) EARLY REFERRAL TO APPEALS PROCEDURES.—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

(b) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—

(1) MEDIATION.—The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(2) ARBITRATION.—The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Serv-

ice Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(c) ADMINISTRATIVE APPEAL RELATING TO ADVERSE DETERMINATION OF TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe procedures under which an organization which claims to be described in section 501(c) may request an administrative appeal (including a conference relating to such appeal if requested by the organization) to the Internal Revenue Service Office of Appeals of an adverse determination described in paragraph (2).

(2) ADVERSE DETERMINATIONS.—For purposes of paragraph (1), an adverse determination is described in this paragraph if such determination is adverse to an organization with respect to—

(A) the initial qualification or continuing qualification of the organization as exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) the initial classification or continuing classification of the organization as a private foundation under section 509(a), or

(C) the initial classification or continuing classification of the organization as a private operating foundation under section 4942(j)(3).

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