

Bipartisan Budget Act of 2018

I. First Amendment: Ending the Double Taxation of Dodd-Frank Act Whistleblower Rewards Paid for whistleblowers who expose Fraud under the Securities and Exchange Act and the Commodity Exchange Act

SEC. 41107. ATTORNEYS FEES RELATING TO AWARDS TO WHISTLEBLOWERS.

(a) IN GENERAL.—Paragraph (21) of section 62(a) is amended to read as follows:

“(21) ATTORNEYS’ FEES RELATING TO AWARDS TO WHISTLEBLOWERS.—

“(A) IN GENERAL.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under—

“(i) section 7623(b), or

“(ii) in the case of taxable years beginning after December 31, 2017, any action brought under—

“(I) section 21F of the Securities Exchange Act of 1934 (15 U.S.C. 78u-6),

“(II) a State law relating to false or fraudulent claims that meets the requirements described in section 1909(b) of the Social Security Act (42 U.S.C. 1396h(b)), or

“(III) section 23 of the Commodity Exchange Act (7 U.S.C. 26).

“(B) MAY NOT EXCEED AWARD.—Sub-paragraph (A) shall not apply to any deduction in excess of the amount includible in the taxpayer’s gross income for the taxable year on account of such award.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2017.

II. Second Amendment: Ensuring that Whistleblowers under the IRS/Tax Whistleblower Law can Obtain a Reward Based on Criminal Fines and Penalties and FBAR Penalties (sanctions for illegal offshore accounts)

SEC. 41108. CLARIFICATION OF WHISTLEBLOWER AWARDS.

(a) DEFINITION OF PROCEEDS.—

(1) IN GENERAL.—Section 7623 is amended by

adding at the end the following new subsection:

“(c) PROCEEDS.—For purposes of this section, the term ‘proceeds’ includes—

“(1) penalties, interest, additions to tax, and additional amounts provided under the internal revenue laws, and

“(2) any proceeds arising from laws for which the Internal Revenue Service is authorized to administer, enforce, or investigate, including—

“(A) criminal fines and civil forfeitures, and

“(B) violations of reporting requirements.”.

(2) CONFORMING AMENDMENTS.—Paragraphs (1) and (2)(A) of section 7623(b) are each amended by striking “collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action” and inserting “proceeds collected as a result of the action”.

(b) AMOUNT OF PROCEEDS DETERMINED WITHOUT

REGARD TO AVAILABILITY.—Paragraphs (1) and (2)(A) of section 7623(b) are each amended by inserting “(determined without regard to whether such proceeds are available to the Secretary)” after “in response to such action”.

(c) DISPUTED AMOUNT THRESHOLD.—Section 7623(b)(5)(B) is amended by striking “tax, penalties, interest, additions to tax, and additional amounts” and inserting “proceeds”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to information provided before, on, or after the date of the enactment of this Act with respect to which a final determination for an award has not been made before such date of enactment.