

## S 1321

Telephone Excise Tax Repeal and Taxpayer Protection and Assistance Act of 2006

**Congress:** 109 (2005–2007, Ended)

**Chamber:** Senate

**Policy Area:** Taxation

**Introduced:** Jun 28, 2005

**Current Status:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 614.

**Latest Action:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 614. (Sep 15, 2006)

**Official Text:** <https://www.congress.gov/bill/109th-congress/senate-bill/1321>

### Sponsor

**Name:** Sen. Santorum, Rick [R-PA]

**Party:** Republican • **State:** PA • **Chamber:** Senate

### Cosponsors (17 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Crapo, Mike [R-ID]	R · ID		Jun 28, 2005
Sen. Hagel, Chuck [R-NE]	R · NE		Jun 28, 2005
Sen. Smith, Gordon H. [R-OR]	R · OR		Jun 28, 2005
Sen. Ensign, John [R-NV]	R · NV		Jun 30, 2005
Sen. Allen, George [R-VA]	R · VA		Jul 1, 2005
Sen. Coburn, Tom [R-OK]	R · OK		Jul 20, 2005
Sen. Thune, John [R-SD]	R · SD		Jul 21, 2005
Sen. Chambliss, Saxby [R-GA]	R · GA		Jul 25, 2005
Sen. Allard, Wayne [R-CO]	R · CO		Jul 29, 2005
Sen. Sessions, Jeff [R-AL]	R · AL		Jul 29, 2005
Sen. Cochran, Thad [R-MS]	R · MS		Sep 21, 2005
Sen. Isakson, Johnny [R-GA]	R · GA		Oct 4, 2005
Sen. Craig, Larry E. [R-ID]	R · ID		Dec 15, 2005
Sen. Hatch, Orrin G. [R-UT]	R · UT		Dec 15, 2005
Sen. Brownback, Sam [R-KS]	R · KS		Feb 2, 2006
Sen. Talent, Jim [R-MO]	R · MO		May 25, 2006
Sen. Kyl, Jon [R-AZ]	R · AZ		Jun 28, 2006

### Committee Activity

Committee	Chamber	Activity	Date
Finance Committee	Senate	Reported By	Sep 15, 2006

Subjects & Policy Tags

Policy Area:

Taxation

Related Bills

Bill	Relationship	Last Action
109 S 832	Procedurally related	<b>Jun 28, 2006:</b> Committee on Finance. Measure incorporated into measure S.1321 ordered to be reported.
109 HR 1898	Identical bill	<b>Apr 27, 2005:</b> Referred to the House Committee on Ways and Means.

Telephone Excise Tax Repeal and Taxpayer Protection and Assistance Act of 2006 - **Title I: Telephone Excise Tax Repeal** - (Sec. 101) Amends the Internal Revenue Code to repeal the excise tax on communication services (i.e., local telephone service, toll telephone service, and teletypewriter exchange service).

Authorizes appropriations to implement the telephone excise tax refund program under Internal Revenue Service (IRS) Notice 2006-50.

**Title II: Taxpayer Protection and Assistance** - (Sec. 201) Authorizes the Secretary of the Treasury to make grants to provide matching funds for qualified return preparation clinics. Defines "qualified return preparation clinic" as a clinic that: (1) does not charge more than a nominal fee for its services; and (2) assists certain low-income taxpayers in preparing and filing federal income tax returns. Directs the Secretary to allocate not more than \$10 million for such grant program.

Increases to \$10 million the limit on grant allocations for low-income taxpayer clinics. Prohibits the use of grant funds for the overhead expenses of such clinics. Authorizes the Secretary to promote the benefits of, and encourage the use of, such clinics through the use of mass communications, referrals, and other means.

(Sec. 202) Authorizes the Secretary to prescribe regulations to regulate the conduct of enrolled agents authorized to practice before the IRS. Allows licensed enrolled agents to use the designation "EA" or "E.A."

(Sec. 203) Expands the authority of the Secretary to regulate the conduct of tax professionals to include compensated tax return preparers. Requires the Secretary to promulgate regulations to regulate, test, license, and penalize such preparers.

Establishes in the IRS an Office of Professional Responsibility.

Prohibits tax professionals admitted to practice before the Department of the Treasury from offering insurance to cover fees and expenses incurred in connection with IRS audits.

Increases penalties applicable to tax return preparers.

Requires the Secretary to conduct a public information and consumer education campaign to: (1) encourage taxpayers to use tax professionals who meet federal competency standards; and (2) inform taxpayers of requirements applicable to tax return preparers.

Authorizes the Secretary to use funds appropriated for earned income tax credit compliance to improve and expand enforcement of regulations relating to tax professionals.

Directs the Secretary to require all documents filed with the IRS to be signed under penalty of perjury and to include the identifying number of any paid preparer.

(Sec. 204) Authorizes the Secretary to contract for the development or administration (or both) of examinations of tax professionals authorized to practice before the Department of the Treasury.

(Sec. 205) Requires refund anticipation loan facilitators to: (1) register with the Secretary annually and provide certain information, including fee schedules; and (2) disclose in writing certain information about refund loan transactions to taxpayers, including loan fees and interest rates.

Authorizes the Secretary to impose a monetary penalty on any refund anticipation loan facilitator who fails to register or make required disclosures.

Requires the Secretary to conduct a public information and consumer education campaign on refund anticipation loans.

(Sec. 206) Authorizes the Secretary to: (1) award grants for demonstration projects to provide tax preparation services and assistance to taxpayers who do not have a bank account in establishing an account with a federally-insured depository institution; and (2) promulgate regulations to implement and administer such grant program. Authorizes appropriations.

Directs the Secretary to study and report to Congress on the payment of tax refunds through debit cards or other electronic means to assist individuals without access to financial accounts or institutions.

**Title III: Improvements in Tax Administration and Taxpayer Safeguards** - (Sec. 301) Requires the Secretary to waive fees for establishing an installment payment agreement (for unpaid taxes) if the taxpayer agrees to automated payments.

(Sec. 302) Requires the termination of an installment payment agreement if a taxpayer fails to make required tax deposits or fails to file a tax return by its due date.

(Sec. 303) Allows a holder of an individual retirement account (IRA) to restore all amounts wrongfully levied from an IRA without regard to applicable limitations on account rollovers and contributions. Requires the Secretary to reimburse IRAs for interest lost due to a wrongful levy.

(Sec. 304) Eliminates the requirement that offers-in-compromise involving \$50,000 or more be supported by a legal opinion by the IRS Chief Counsel. Grants discretion to the Secretary in requiring a legal opinion before approving an offer-in-compromise.

(Sec. 305) Allows states to use the federal income tax refunds of out-of-state taxpayers to enforce past-due, legally enforceable state income tax debts.

(Sec. 306) Revises the grounds for automatic termination of IRS employees. Eliminates as automatic grounds the filing of a late tax return where no tax is owed and assault and battery against another IRS employee. Adds as a ground for termination the unauthorized inspection of tax returns.

(Sec. 307) Eliminates the right to a collection due process hearing for levies to collect federal employment taxes.

(Sec. 308) Extends from nine months to two years the period in which a taxpayer may: (1) claim a refund for property that has been wrongfully levied upon; or (2) bring a civil action for a refund.

(Sec. 309) Requires paid tax return preparers who handle at least five (currently, 250) tax returns to file such returns electronically. Imposes a penalty for failure to file a tax return electronically if required to do so.

(Sec. 310) Requires the Secretary to: (1) allow taxpayers to file their tax returns through the IRS website without the use of an intermediary (direct e-file program); and (2) report to Congress on the implementation and taxpayer usage of the direct e-file program.

(Sec. 311) Requires the Secretary to: (1) prohibit certain commercial tax return preparers who provide free electronic filing services to eligible low-income or elderly taxpayers (Free File Program) from advertising, marketing, or selling products or services that are not directly related to the preparation of tax returns; (2) encourage preparers to provide

access to the Free File Program by the blind; and (3) report to Congress on the regulation of the Free File Program.

(Sec. 312) Requires the Secretary to study and report to Congress on issues relating to taxpayer recordkeeping requirements.

(Sec. 313) Revises the reporting requirements of the Treasury Inspector General for Tax Administrations to require biennial ( currently, annual) reports on IRS management issues.

(Sec. 314) Revises the reporting requirements of the Office of the National Taxpayer Advocate to require one report to Congress by December 31 of each year on the objectives of the Office. Grants the National Taxpayer Advocate discretion to report to Congress at any time on significant issues affecting taxpayer rights.

(Sec. 315) Revises the awards program for individuals who provide information about tax law violations (whistleblowers). Allows awards of between 15 and 30% of amounts collected by the IRS and awards in cases involving less substantial contributions of information.

Establishes in the IRS a Whistleblower Office. Requires the Secretary to report to Congress annually on the whistleblower program.

(Sec. 316) Permits the Financial Management Service (FMS) to deduct its transaction fees for taxpayer levies from levied amounts. Provides that taxpayer liabilities are not reduced by the amount deducted by FMS.

(Sec. 317) Allows the IRS to provide tax-exempt churches with information on standards for tax-exemptions and requirements relating to unrelated business taxable income without violating church tax inquiry procedures.

(Sec. 318) Treats support from an Indian tribal government as support from a state for purposes of determining the status of a tax-exempt organization as a public charity or a private foundation.

(Sec. 319) Grants jurisdiction to the U.S. Tax Court to review taxpayer petitions for equitable relief from joint and several tax liability (i.e., innocent spouse relief).

(Sec. 320) Authorizes appropriations for FY2007 to establish an office in the IRS to focus on tax law violations by persons under investigation for commercial sex trafficking.

(Sec. 321) Directs the Secretary to establish a registration system for payroll tax deposit agents. Sets forth audit and disclosure requirements for such agents. Imposes a penalty on such agents for failure to collect and pay over tax or for attempts to evade or defeat tax.

(Sec. 322) Extends the limitation period for filing claims for tax refunds for retired military personnel who receive disability determinations after filing a tax return.

**Title IV: Reform of Penalty and Interest** - (Sec. 401) Increases from \$1,000 to \$2,000 the tax liability threshold for imposing the penalty for failure to pay individual estimated income tax.

(Sec. 402) Increases from \$500 to \$1,000 the small tax amount exception applicable to corporate estimated tax liability.

(Sec. 403) Increases the \$1 million threshold defining large corporations (for purposes of estimated tax liability) by \$50,000 every year beginning after FY2006 until such amount reaches \$1,500,000.

(Sec. 404) Revises rules relating to interest netting for overpayments and underpayments of tax.

(Sec. 405) Revises the penalty provisions for failure to make a federal tax deposit to impose the 10% penalty only in cases in which failure to make a deposit extends for more than 15 days.

(Sec. 406) Increases the civil penalty for filing frivolous tax returns and extends such penalty to the filing of frivolous tax submissions, including requests for a collection due process hearing, agreements to pay taxes in installments, offers-in-compromise, or taxpayer assistance orders. Requires the Secretary to publish a list of positions identified as frivolous. Authorizes the Secretary to reduce frivolous submission penalties under certain circumstances.

(Sec. 407) Extends penalties applicable to income tax return preparers to preparers of all types of tax returns (e.g., estate and gift tax, employment tax, and excise tax returns and returns of tax-exempt organizations).

(Sec. 408) Revises and increases the civil penalty for aiding and abetting the understatement of tax liability.

(Sec. 409) Increases criminal penalties for: (1) attempts to evade or defeat tax; (2) willful failure to file tax returns, supply information, or pay tax; (3) aggravated failure to file tax returns (i.e., failure to file for three or more consecutive years where the tax liability is \$100,000 or more or involves felonious activities); (4) fraud and false statements; and (5) underpayments or overpayments of tax due to fraud.

(Sec. 410) Doubles tax penalties for underpayments of tax resulting from offshore financial arrangements.

(Sec. 411) Increases the penalty for bad checks or money orders tendered to pay taxes.

(Sec. 412) Increases the penalty tax on tax-exempt organizations and their organization managers for illegal lobbying expenditures.

(Sec. 413) Imposes a civil penalty for excessive tax refund or credit claims.

**Title V: Confidentiality and Disclosure** - (Sec. 501) Permits former spouses to make oral requests (currently, requests must be in writing) for disclosure of IRS collection activities relating to joint tax return liability.

(Sec. 502) Prohibits the disclosure of a taxpayer identification numbers in public disclosures of accepted offers-in-compromise.

(Sec. 503) Prohibits federal, state, or local agencies from disclosing tax return information to contractors unless such agencies: (1) require contractors to establish confidentiality safeguards; (2) conduct on-site reviews of contractors every three years to ensure compliance with safeguards; and (3) certify contractor compliance to the Secretary.

(Sec. 504) Limits IRS disclosure of tax return information to the purposes for which a taxpayer has authorized disclosure. Requires disclosure authorization forms to contain a warning to taxpayers that such forms should not be signed unless completed. Provides for civil damages for unauthorized disclosure of tax return information.

Requires the Secretary to report to Congress on compliance with requirements for requests for disclosure of tax return information. Limits the effective period for requests for or consents to disclosure of tax return information to three years.

(Sec. 505) Requires the Secretary to notify a taxpayer if the IRS or other federal or state agency has taken disciplinary or other adverse action against an employee for unauthorized inspection or disclosure of such taxpayer's tax return or return information. Requires a taxpayer to exhaust administrative remedies prior to seeking a judgment for damages for

unauthorized disclosure of tax return information. Requires the Secretary to report to the Joint Committee on Taxation on administrative investigations, civil lawsuits, and criminal prosecutions relating to willful unauthorized disclosure and inspection of tax return information.

(Sec. 506) Extends IRS authority to disclose return information in emergency circumstances to include disclosures to local law enforcement agencies.

(Sec. 507) Authorizes the IRS to use any means of mass communication (e.g., the Internet) to notify taxpayers of undelivered refunds.

(Sec. 508) Exempts from confidentiality restrictions tax return information disclosed in the course of any judicial or administrative proceeding or pursuant to tax administration activities that are properly made part of the public record.

(Sec. 509) Authorizes the IRS to verify tax identification numbers that match IRS records.

(Sec. 510) Eliminates certain safeguard requirements applicable to the disclosure of returns filed reflecting cash receipts of more than \$10,000 received in a trade or business.

(Sec. 511) Expands the definition of "tax return preparer" for purposes of criminal penalties for unauthorized disclosures of tax return information to include preparers of all types of tax returns (currently, limited to income tax returns).

(Sec. 512) Restricts the disclosure by tax return preparers, including preparers located outside the United States, of taxpayer return information except for tax preparation purposes. Requires the Secretary to create a consent form which notifies the taxpayer that: (1) tax return information will be disclosed to a tax return preparer located outside of the United States; and (2) federal law may not protect the taxpayer against unauthorized use or disclosure of tax return information by such foreign tax return preparer.

**Title VI: United States Tax Court Employee Appointment Modernization** - (Sec. 601) Grants the Tax Court authority to establish its own personnel management system by specifically authorizing the appointment of a Clerk of Court and the hiring of law clerks, secretaries, and other necessary employees. Requires such system to incorporate the merit system principles that govern executive branch employment. Allows the Tax Court to fix and adjust the compensation of its employees without regard to executive branch pay provisions.

Requires the Tax Court to prohibit discrimination in employment practices. Authorizes the Court to hire experts and consultants.

**Title VII: Miscellaneous Provisions** - (Sec. 701) Allows a taxpayer election to expense (i.e., deduct in the current taxable year) qualified broadband expenditures incurred after June 30, 2006, and before January 1, 2011, in certain rural or underserved areas.

(Sec. 702) Allows purchasers of kerosene for a tax-exempt aviation purpose to make refund claims for excise taxes paid on such fuel or waive the right to make such claims to their registered ultimate users. Sets forth a special rule for refund claims for purchases of kerosene used in aviation on a farm for farming purposes.

(Sec. 703) Requires a sworn declaration in corporate tax returns that a corporation has in place processes and procedures to ensure tax return accuracy and that the chief executive officer of the corporation was provided reasonable assurance of the return's accuracy.

(Sec. 704) Treats a certified professional employer organization as an employer for employment tax purposes.

(Sec. 705) Directs the Secretary of the Treasury to study and report to Congress on increasing collection of estimated tax payments under the electronic fund transfer system and on using voluntary tax withholding agreements between independent contractors and service recipients.

(Sec. 707) Permits state courts to use overpayments of federal tax to pay past-due court-ordered debts.

(Sec. 708) Requires the U.S. Marshals Service to provide security services for Tax Court judges, court officers, witnesses, and other individuals threatened by criminal intimidation.

(Sec. 709) Authorizes appropriations in FY2007 to combat the tax gap (the amount of taxes owed by taxpayers in a fiscal year over the amount of such taxes collected by the IRS) with a specified amount for tax law enforcement.

(Sec. 710) Directs the Secretary to make an annual report to the House Ways and Means Committee and the Senate Finance Committee on the tax gap.

(Sec. 711) Authorizes appropriations in FY2007 to establish an IRS office to prosecute employers who violate tax laws relating to the hiring and continued employment of undocumented workers. Requires the Secretary to report to Congress on the enforcement activities of such office.

(Sec. 712) Repeals the monetary limitation on contributions to tax-exempt funeral trusts.

(Sec. 713) Requires the issuance of Treasury regulations permitting extensions of time for filing a qualified terminable interest property (QTIP) election.

(Sec. 714) Allows disclosure of written IRS determinations and background file documents relating to certain tax-exempt organizations.

(Sec. 715) Requires a tax-exempt organization to disclose any name under which such organization operates or does business and the organization's web site address.

(Sec. 716) Requires information relating to the capital gains and losses of private foundations from the sale of stock and securities to be provided to the public in summary form.

(Sec. 717) Requires the IRS Commissioner to notify the public of the extent to which a tax-exempt organization's Form 990, Form 990-EZ, or Form 990-PF is publicly available.

(Sec. 718) Requires the Secretary to adopt procedures for the expedited consideration of applications for tax-exempt status filed after December 31, 2006, by certain organizations providing social services.

(Sec. 719) Extends declaratory judgment relief currently available only to public charities to other tax-exempt organizations that seek to challenge an adverse IRS determination as to their tax-exempt status.

(Sec. 720) Classifies wireless telecommunications equipment placed in service before January 1, 2011, as five-year property for purposes of determining its depreciation allowance.

(Sec. 721) Makes permanent the ban on state and local taxation on Internet access and on multiple and discriminatory taxes on electronic commerce.



(Sec. 722) Eliminates specified provisions of the Internal Revenue Code that no longer have legal effect.

**Title VIII: Revenue Offset Provisions** - (Sec. 801) Sets forth general rules to determine whether transactions with tax implications have economic substance (economic substance doctrine). Recognizes a transaction as having economic substance only if: (1) such transaction changes in a meaningful way a taxpayer's economic position; and (2) a taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing the taxpayer's purpose. Sets forth special rules for the consideration of profit potential and for transactions with tax-indifferent parties (parties not subject to income tax) in determining economic substance.

Requires the Secretary to prescribe regulations for the application of the economic substance doctrine.

(Sec. 802) Imposes an increased penalty rate (40%) for understatements of tax liability resulting from transactions lacking economic substance. Reduces such penalty rate to 20% for transactions that are adequately disclosed in a tax return.

(Sec. 803) Sets forth a special rule for the tax treatment of certain inverted foreign corporations as domestic corporation for inversion transactions (i.e., stock transfers of 80% or more) occurring after March 20, 2002, and on or before March 4, 2003.

### **Actions Timeline**

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- **Sep 15, 2006:** Committee on Finance. Reported by Senator Grassley with an amendment in the nature of a substitute and an amendment to the title. With written report No. 109-336.
- **Sep 15, 2006:** Committee on Finance. Reported by Senator Grassley with an amendment in the nature of a substitute and an amendment to the title. With written report No. 109-336.
- **Sep 15, 2006:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 614.
- **Jun 28, 2006:** Committee on Finance. Ordered to be reported with an amendment in the nature of a substitute favorably. Substitute amendment incorporates the text of S.832.
- **Jun 28, 2005:** Introduced in Senate
- **Jun 28, 2005:** Sponsor introductory remarks on measure. (CR S7526)
- **Jun 28, 2005:** Read twice and referred to the Committee on Finance.