The Grassley-Wyden, Grassley or Grassley-Thune measures
Approved by the Finance Committee April 20, 2016

Improving communications with IRS whistleblowers. The provision allows the IRS to exchange information with whistleblowers where doing so would be helpful to an investigation; require the Treasury secretary to notify the whistleblowers on the status of their claim at two significant points in the review process: when the claim has been referred to an audit or examination; and at the point where the taxpayer makes a payment to settle the tax liability, but before the refund statute expires. The secretary would have the authority, but not be required, to provide status updates at other points in the review process. To ensure taxpayer information is protected, whistleblowers receiving the information would be subject to penalties for unauthorized disclosure of taxpayer information.

Protecting tax fraud whistleblowers from employer retaliation. The provision extends anti-retaliation provisions to IRS whistleblowers that are presently afforded to whistleblowers under the False Claims Act and Sarbanes-Oxley. Specifically, it establishes a civil action against an employer that retaliates against an IRS whistleblower who makes a good faith disclosure of tax abuses to specified authorities, including Internal Revenue Service, the Secretary of Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct. A whistleblower who alleges discharge or other reprisal by an employer may seek relief by filing a complaint with the Secretary of labor, or if the Secretary does not issue a final decision within 180 days, by bringing an action in U.S. District Court. The whistleblower would have 180 days after the date on which the violation occurs to file their compliant with the secretary of labor. Whistleblowers bringing a successful action would be eligible for the following relief: reinstatement with the same seniority status that the employee would have had, but for the reprisal, twice the amount of their back pay and 100 percent of all lost benefits and compensation for any special damages sustained as a result of the reprisal.

Notification of unauthorized inspection or disclosure of returns and return information. Under section 7431 of the Internal Revenue Code, the Treasury secretary is required to notify a taxpayer about unauthorized inspection or disclosure of their taxpayer information only should the offending party be criminally charged. The provision modifies the notification to require the secretary to notify a taxpayer if the Internal Revenue Service or, upon notice to the secretary by a federal or state agency, if such federal or state agency proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice will include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination. Requiring this notification will enhance the ability of a taxpayer to exercise their rights to bring a civil action for unauthorized inspection or disclosure.

Extend time limit for contesting an IRS levy. The IRS is authorized to levy property to satisfy a tax debt in certain instances. While the IRS is authorized to return property that has been wrongfully levied upon at any time, it is only authorized to return the monetary proceeds from the sale of levied property within 9 months of the date of the levy. Similarly, if a third party believes the levied property belongs to him/her and not the person against whom the tax is assessed, the third party generally has 9 months from the time of the levy to bring a civil action for wrongful levy in a U.S. district court. In some cases the 9-month period may be insufficient for individuals and third parties to discover a wrongful levy and seek remedy. Therefore, the provision extends from 9 months to 2 years the period for returning the

monetary proceeds from the sale of property that has been wrongfully levied upon as well as the period for bringing a civil action for wrongful levy.

Individuals held harmless on improper levy on retirement plans. Under present law, if the IRS improperly levies on an individual retirement arrangement (IRA) or certain employer-sponsored retirement plans, an individual may not be made whole even if the IRS returns the amount levied with interest because the individual may lose the opportunity to have those funds accumulate on a tax-favored basis until retirement. The provision allows amounts, including interest, returned to an individual from the IRS pursuant to a levy to be contributed to the IRA or employer-sponsored plan without regard to normal contribution limits. In general, any tax attributable to the amount distributed from the IRA or employer-sponsored plan by reason of a levy is not to be assessed, if assessed is to be abated, and if collected is to be credited or refunded as an overpayment. In addition, the IRS is required to pay interest on an amount returned to the individual in the case of a levy that is determined to be premature or otherwise not in accordance with administrative procedures, as well as in the case of a wrongful levy under present law. The purpose is to protect a taxpayer's retirement nest egg where the IRS improperly levied a taxpayer's IRA.

Electronic record retention. In August 2012, the Office of Management and Budget and National Archives and Records Administration issued a joint directive to heads of executive departments and agencies to manage both permanent and temporary email records in an accessible electronic format by December 31, 2016. There are no tax code provisions governing IRS record retention, management, or transfer of paper or electronic records. The Internal Revenue Manual provides IRS employees processes, procedures, and guidelines regarding records and information management. The provision codifies the joint directive issued in August 2012. In addition, the provision requires that the IRS maintain email records of all principal officers and specified employees for no less than 15 years. The purpose is to ensure the IRS has in place adequate safeguards to ensure electronic records, such as e-mails, are properly saved and readily retrievable.

Mandatory e-filing by exempt organizations. In general, only the largest and smallest tax-exempt organizations are required to electronically file their annual information returns. Tax-exempt corporations that have assets of $10 million or more and that file at least 250 returns during a calendar year must electronically file their Form 990 information returns. Private foundations and charitable trusts, regardless of asset size, that file at least 250 returns during a calendar year are required to file electronically their Form 990-PF information returns. Organizations that file Form 990-N (i.e., the e-postcard) also must electronically file. Information returns filed electronically can be processed more rapidly and at much lower cost than paper return filings. Therefore, the provision extends the requirement to electronically file to all tax-exempt organizations required to file statements or returns in the Form 990 series or Form 8872 ("Political Organization Report of Contributions and Expenditures"). The provision also requires that the IRS make the information provided on the forms available to the public in a machine-readable format as soon as practicable. The goal is to increase the transparency of, and enhance public access to information about, public charities.

A study of problems with IRS use of offers in compromise. The Grassley-Thune bill would have eliminated red tape that may act as a barrier to taxpayers facing financial hardship to settle their tax debt for less through an offer in compromise. The chairman's mark includes a Government Accountability Office (GAO) study of the problem.

Improved access to appeals. Thune offered this amendment, with Grassley co-sponsoring, based on a provision in the Grassley-Thune bill. This provision would require that the GAO examine taxpayers'

access to appeals, in particular the effect on taxpayers in those states without a permanent appeals officer and/or a permanent Settlement Officer. The study should include a comparison of taxpayer access to appeals in these states compared to states with a permanent appeals or settlement officer and should evaluate wait times, geographic and technological constraints, the time necessary to resolve appeals cases, taxpayer satisfaction with the IRS, and other factors that GAO may deem relevant. Currently the IRS lacks a permanent appeals presence in 12 states (Alaska, Arkansas, Delaware, Idaho, Kansas, Montana, North Dakota, New Mexico, Rhode Island, South Dakota, Vermont and Wyoming) and Puerto Rico. An additional four states (Hawaii, Iowa, Maine, and West Virginia) have a permanent appeals officer but lack a permanent settlement officer.