

## A Bipartisan Tax Bill Aims to Close Loopholes in Whistleblower Law

Article By:

Stephen M. Kohn

---

When Congress modernized the Internal Revenue Service (IRS) Whistleblower Program in 2006, it quickly revolutionized tax fraud enforcement efforts. The ability of whistleblowers to obtain mandatory rewards, paid from proceeds directly obtained from tax cheats, triggered thousands of high quality informants to step forward. In 2009, Bradley Birkenfeld, the first major offshore banking whistleblower came forward, resulting in historic sanctions against UBS bank.

The long-term tax benefits of that case were [described by University of California law Professor Dennis Ventry](#):

*“Thanks to [the] whistleblower . . . the U.S. government (take a deep breath) received: \$780 million and the names of 250 high-dollar Americans . . . another 4,450 names and accounts of U.S. citizens . . . 120 criminal indictments of U.S. taxpayers and tax advisors . . . the closure of prominent Swiss banks . . . \$5.5 billion collected from the IRS Offshore Voluntary Disclosure Program (OVDP), with untold tens of billions of dollars still payable . . .”*

By offering monetary awards to whistleblowers, the program has been immensely successful in incentivizing individuals with direct knowledge of large-scale tax fraud to come forward and cooperate with U.S. authorities. Since 2007, the IRS Whistleblower Program has granted over \$1 billion to whistleblowers based on the collection of billions in back taxes, interest, penalties, and criminal fines and sanctions.

In recent years, however, the program has been [plagued by a number of issues](#), including massive delays, which have greatly undermined its efficacy. The program’s recent shortcomings are clearly shown by [statistics released in the IRS Office of the Whistleblower’s most recent annual report to Congress](#). The annual money recovered by the program fell from \$1.44 billion in Fiscal Year 2018 to just \$245 million in Fiscal Year 2021 and the agency’s payouts to whistleblowers dropped from \$312 million to \$36 million over those same years.

While the IRS’s whistleblower payouts have declined significantly, other agencies have seen record

---

years for their whistleblower award programs. For example, in Fiscal Year 2021, the U.S. Securities and Exchange Commission (SEC) Whistleblower Program awarded [a record \\$564 million to whistleblowers](#). That year, the Department of Justice [reported that whistleblower-initiated False Claims Act cases allowed the government to recover more than \\$1.6 billion from fraudsters](#).

Perhaps the most troubling statistic revealed in the IRS report is that the average time to process a whistleblower case is over eleven years. [These long delays are infamous](#) and are discouraging whistleblowers from coming forward.

While some of the program's issues stem from a lack of resources, which will hopefully be addressed by the IRS's increase in funding, a number of loopholes exist within the tax whistleblower law which are undermining the program. On March 2, a bipartisan group of Senators, Chuck Grassley (R-IA), Ron Wyden (D-OR), Roger Wicker (R-MS) and Ben Cardin (D-MD), [introduced the IRS Whistleblower Program Improvement Act \(S.625\)](#) to address these loopholes and bolster the agency's vitally important whistleblower program.

In addition to addressing the debilitating delays, the bill takes aim at the tax whistleblower law's lack of statutory anonymity for whistleblowers, the absence of *de novo* review for tax whistleblower award appeals, and the improper reduction of awards through budget sequestration.

Some of the key provisions in the IRS Whistleblower Improvement Act include:

- *The establishment of the presumption of anonymity.* While the bill falls short of guaranteeing IRS whistleblowers a right to anonymity, it creates procedures where legitimate whistleblowers will be able to proceed anonymously in court. It will also provide whistleblowers with the legal tools they need to oppose improper IRS attempts to strip whistleblowers of their confidentiality. Whistleblowers are far more likely to come forward and risk their careers exposing tax fraud when they have reason to believe their confidentiality will be protected.
- *Imposition of interest on delayed awards.* In order to reduce the debilitating delays in the processing of whistleblower award claims, the bill imposes a fairly modest interest payment onto whistleblower awards which the IRS delays at least 1 year in issuing.
- *Institution of de novo review in award case appeals.* The bill gives whistleblowers a realistic opportunity to oppose an illegal or improper denial of an award. Under the amendment, if the IRS denies an award, the whistleblower can challenge the denial in Tax Court under the *de novo* standard of review. This simply means that the whistleblower can conduct discovery and can learn the actual basis for a denial and challenge it before an independent judge. This provision is designed to ensure that the IRS finally and properly adjudicates all whistleblower cases and will subject the IRS to accountability if they fail to implement the law as intended by Congress.
- *Removal of budget sequestration for whistleblower awards.* The IRS program is the only whistleblower program in which an administrative agency reduces the amount of an award based on the budget sequestration rules adopted under President Obama. Applying budget sequestration to whistleblower payments is unjustifiable and results in payments below the mandatory statutory minimum award amount of 15% of the funds collected by the IRS in the relevant enforcement action. The amendments will fix that.

In proposing the IRS Whistleblower Improvement Act, Senator Wyden, Chairman of the Senate Finance Committee, [stated](#):

“Whistleblowers play an essential role in helping to identify and root out tax cheating schemes that rip off the American people for huge amounts of money. It takes real courage to blow the whistle and help put an end to illegal tax cheating schemes, and our bill will go a long way to strengthen protections for the brave Americans who come forward.”

A house version of the bill ([H.R. 1300](#)) was introduced by Representatives Mike Kelly (R-PA) and Mike Thompson (D-CA). The House version was sent to the Committee on Ways and Means and the Committee on the Budget while the Senate version was sent to the Finance Committee. Whistleblower advocacy groups, including the National Whistleblower Center and Taxpayers Against Fraud, have come out in support of the legislation.

An effective IRS Whistleblower Program is key to the efforts of the United State’s to hold wealthy tax cheats accountable to cut down on the tax gap. By addressing the statutory loopholes currently undermining the program, the IRS Whistleblower Improvement Act goes a long way in ensuring the program is effective.

Copyright Kohn, Kohn & Colapinto, LLP 2025. All Rights Reserved.

---

National Law Review, Volume XIII, Number 107

Source URL: <https://natlawreview.com/article/bipartisan-tax-bill-aims-to-close-loopholes-whistleblower-law>