

## House OKs tougher penalties for unauthorized disclosures of taxpayer data

The House of Representatives on September 17 approved a bill that would ratchet up the penalties on individuals who are convicted of making unauthorized disclosures of federal tax returns and protected return information, plus two other measures that would broaden the benefits available under high-deductible health insurance plans (HDHPs) and relax the rules regarding the tax treatment of contributions to certain tax-exempt veterans organizations.

But lawmakers failed to advance a proposal intended to prevent US tax-exempt organizations from serving as conduits for foreign entities seeking to make indirect contributions to federal elections.

All four bills were considered under an expedited process known as “suspension of the rules”—a procedural tool in the House that allows for limited debate, no amendments, and passage upon an affirmative two-thirds vote.

### Unauthorized disclosure of taxpayer information

The Taxpayer Data Protection Act (H.R. 8292: text, Joint Committee on Taxation staff description), which was sponsored by Ways and Means Committee Chairman Jason Smith, R-Mo., and cleared the chamber by voice vote, would significantly increase the current-law penalties imposed on individuals who make willful and unauthorized disclosures of federal income tax returns and return information.

URL: <https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/AINS-to-H.R.-8292.pdf>

URL: <https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/JCT-Description-of-H.R.-8292.pdf>

Under the House-approved bill., an individual convicted of violating federal prohibitions on tax return disclosure would face a maximum fine of \$250,000 (up from \$5,000 under current law), a maximum prison sentence of 10 years (up from five years under current law), or both. The measure also clarifies that an unauthorized disclosure involving the returns or return information of multiple taxpayers would be treated as a separate violation for each taxpayer whose data was compromised. The stiffer penalties would be effective for disclosures made after the date of enactment. The JCT staff estimates that the measure would have a negligible effect on federal revenues over the 2024-2034 budget window.

The legislation was introduced at least partially in response to a data breach at the IRS involving some 70,000 taxpayers that began in 2019 and made national headlines in 2021 when tax return information for several prominent individuals appeared in *The New York Times* and *Pro Publica*. A former IRS contractor subsequently was charged with and pleaded guilty to a single count of unauthorized disclosure and received the current-law maximum fine and prison sentence—an outcome lawmakers in both parties have argued was insufficient given the magnitude of the offense.

## **Expanded benefits for high-deductible health plans**

Also clearing the chamber by voice vote was the Chronic Disease Flexible Coverage Act (H.R. 3800: text; JCT staff description), sponsored by Ways and Means Committee members Brad Wenstrup, R-Ohio, and Earl Blumenauer D-Ore. That measure would essentially codify IRS Notice 2019-45, which expanded the list of preventive care benefits permitted to be provided by a high-deductible health plan, before the deductible, to include certain preventive care for specified chronic conditions. (An HDHP is a health plan, linked to a tax-preferred health savings account, that meets certain dollar thresholds related to the annual deductible and limitations on annual out-of-pocket expenses. The dollar thresholds are adjusted for inflation.)

[URL: https://www.congress.gov/bill/118th-congress/house-bill/3800/text](https://www.congress.gov/bill/118th-congress/house-bill/3800/text)

[URL: https://www.jct.gov/publications/2023/jcx-13-23/](https://www.jct.gov/publications/2023/jcx-13-23/)

[URL: https://www.irs.gov/pub/irs-drop/n-19-45.pdf](https://www.irs.gov/pub/irs-drop/n-19-45.pdf)

According to the JCT staff, the bill would have no revenue impact over the 10-year budget window.

## **Charitable contributions to veterans organizations**

The VSO Equal Tax Treatment (VETT) Act (H.R. 1432: text; JCT staff description), sponsored by Wenstrup and Democratic taxwriter Jimmy Panetta, D-Calif., would expand the deductibility of charitable contributions to all federally chartered tax-exempt organizations serving current and former members of the armed forces (that is, organizations described in section 501(c)(19)) by superseding a rule that currently requires these organizations to maintain a membership of at least 90 percent wartime veterans in order to receive tax-deductible contributions. It was approved by voice vote.

[URL: https://www.congress.gov/bill/118th-congress/house-bill/1432/text](https://www.congress.gov/bill/118th-congress/house-bill/1432/text)

[URL: https://www.jct.gov/publications/2023/jcx-54-23/](https://www.jct.gov/publications/2023/jcx-54-23/)

The JCT staff estimates that H.R. 1432 would reduce federal revenues by an estimated \$1 million over the next decade.

## **Indirect political contributions by foreign donors**

The chamber failed to pass the No Foreign Election Interference Act (H.R. 8314: text; JCT staff description), a bill sponsored by Rep. Nicole Malliotakis, R-N.Y., that would amend the Internal Revenue Code to impose penalties on certain tax-exempt organizations that receive contributions from foreign nationals and then pass those contributions along in the form of donations to political action committees or other overtly political causes. The measure received a majority vote of 218-181, with 16 Democrats joining 202 Republicans in the “aye” column; however, the final tally was short of the two-thirds supermajority required for passage under the suspension procedures.

[URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/AINS-to-H.R.-8314.pdf](https://gop-waysandmeans.house.gov/wp-content/uploads/2024/05/AINS-to-H.R.-8314.pdf)

[URL: https://www.jct.gov/publications/2024/jcx-19-24/](https://www.jct.gov/publications/2024/jcx-19-24/)

The proposal provides that a “specified tax-exempt organization” that receives a contribution or gift from a foreign national would be banned from making donations to a political committee for eight years. An

organization that violates the ban would face a fine totaling 200 percent of the donation amount for each of the first two disqualified donations. An organization that violates the ban for a third time would automatically lose its tax-exempt status.

A “specified tax-exempt organization” is defined as an organization that has (1) gross receipts for the taxable year of \$200,000 or more, or (2) assets of \$500,000 or more (determined as of the close of the taxable year).

The bill would be effective for contributions made on or after January 1, 2025, and, according to the JCT staff, would result in a 10-year revenue gain of less than \$500,000.

Democratic taxwriter Linda Sanchez of California, who spoke against the measure on the House floor, said that it would lead to “unintended and harmful consequences” and “would unfairly hurt American workers and the unions that represent them.” She contended, among other things, that the bill “does not define ‘a contribution or gift’” for purposes of the eight-year ban on political contributions. If union dues are considered a contribution or gift, she argued, then dues paid by a union member who is not a US citizen—for example, a green card holder or an immigrant holding a temporary visa—could “restrict the union’s right to give to a political committee” under the measure as drafted.

Nicole Mallitoakis, the bill’s sponsor, argued in rebuttal that “this legislation does not include any dues-paying trade organizations or labor unions” and that its “sole intent . . . is to keep foreign mega-donor money out of our elections.”

### **Next steps unclear**

Senate Democratic leaders have not indicated if they intend to take up the Taxpayer Data Protection Act, the Chronic Disease Flexible Coverage Act, or the VETT Act now that they have been approved in the House.

House Republican leaders, for their part, have not announced if intend to bring the No Foreign Election Interference Act back to the floor under what’s known as regular order, which would allow for passage by a simple majority but also potentially open it up to amendments and an extended debate process.

— Michael DeHoff  
Tax Policy Group  
Deloitte Tax LLP

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