

105TH CONGRESS
2D SESSION

S. 1612

To provide for taxpayer recovery of costs, fees, and expenses under section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 1998

Mr. LEAHY (for himself and Mr. FEINGOLD) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for taxpayer recovery of costs, fees, and expenses under section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Access to Jus-
5 tice For Taxpayers Act of 1998”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) In 1981, Congress enacted the Equal Ac-
2 cess to Justice Act to help individuals, partnerships,
3 and corporations seek review of, or defend against,
4 unjustified governmental action because of the ex-
5 pense involved in securing the vindication of their
6 rights in civil actions and in administrative proceed-
7 ings.

8 (2) Taxpayers have been denied equal access to
9 justice under the Equal Access to Justice Act.

10 (3) The Report of the National Commission on
11 Restructuring the Internal Revenue Service, dated
12 June 25, 1997, found that “While the Taxpayer Bill
13 of Rights legislation made great strides to allow tax-
14 payers to recover damages for Internal Revenue
15 Service malfeasance, current provisions do not pro-
16 vide adequate relief. In addition, there are many
17 cases in which taxpayers are not able to obtain re-
18 view of Internal Revenue Service actions.”.

19 (4) The Report of the National Commission on
20 Restructuring the Internal Revenue Service con-
21 cluded that “Congress must provide taxpayers with
22 adequate and reasonable compensation for actual
23 damages incurred for wrongful actions by the Inter-
24 nal Revenue Service.”.

1 (5) In hearings before the Senate Finance Com-
2 mittee in September 1997, average taxpayers testi-
3 fied that—

4 (A) numerous unjustified actions by the
5 Federal Government, by means of the Internal
6 Revenue Service, caused actual damages and
7 emotional distress; and

8 (B) the Federal Government, by means of
9 the Internal Revenue Service, used its greater
10 resources to punish taxpayers by bringing un-
11 justified civil actions and administrative pro-
12 ceedings.

13 (b) PURPOSES.—The purposes of this Act are to—

14 (1) provide taxpayers with the same rights as
15 other individuals, partnerships, and corporations
16 that seek review of, or defend against, unjustified
17 Governmental action by Federal agencies; and

18 (2) provide taxpayers with fair opportunities to
19 seek review of, or defend against, action by the Fed-
20 eral Government, by means of the Internal Revenue
21 Service, by providing in specified situations an
22 award of attorney fees, expert witness fees, and
23 other costs against the United States.

1 **SEC. 3. TAXPAYERS' RECOVERY OF COSTS, FEES, AND EX-**
2 **PENSES IN ADMINISTRATIVE PROCEEDINGS**
3 **UNDER THE EQUAL ACCESS TO JUSTICE ACT.**

4 Section 504 of title 5, United States Code, is amend-
5 ed by striking subsection (f).

6 **SEC. 4. TAXPAYERS' RECOVERY OF COSTS, FEES, AND EX-**
7 **PENSES IN COURT PROCEEDINGS UNDER**
8 **THE EQUAL ACCESS TO JUSTICE ACT.**

9 Section 2412 of title 28, United States Code, is
10 amended—

11 (1) by striking subsection (e); and

12 (2) by redesignating subsection (f) as sub-
13 section (e).

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