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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to impose restrictions on
university tax inquiries and examinations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. ADAMS introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Internal Revenue Code of 1986 to impose
restrictions on university tax inquiries and examinations,
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 “Higher Education
5 Oversight for Nonprofits Ensuring Standards and Trans-
6 parency Act”.

1 **SEC. 2. RESTRICTIONS ON UNIVERSITY TAX INQUIRIES AND**
2 **EXAMINATIONS.**

3 (a) IN GENERAL.—Subchapter A of chapter 78 of the
4 Internal Revenue Code of 1986 is amended—

5 (1) by redesignating section 7613 as section
6 7614, and

7 (2) by inserting after section 7612 the following
8 new section:

9 **“SEC. 7613. RESTRICTIONS ON UNIVERSITY TAX INQUIRIES**
10 **AND EXAMINATIONS.**

11 **“(a) RESTRICTIONS ON INQUIRIES.—**

12 **“(1) IN GENERAL.—**The Secretary may begin a
13 university tax inquiry only if the requirements of
14 paragraphs (2) and (3) have been met.

15 **“(2) REASONABLE BELIEF REQUIREMENT.—**

16 The requirement of this paragraph is met with re-
17 spect to any university tax inquiry if—

18 **“(A) in the case of such inquiry serving as**
19 **a basis for determining whether any income de-**
20 **rived by the university is excludable from tax-**
21 **ation under section 115, an appropriate high-**
22 **level Treasury official reasonably believes (on**
23 **the basis of facts and circumstances recorded in**
24 **writing) that any such income may not be so**
25 **excluded,**

1 “(B) in the case of such inquiry serving as
2 a basis for determining whether the university
3 is exempt from taxation under section 501(a),
4 an appropriate high-level Treasury official rea-
5 sonably believes (on the basis of facts and cir-
6 cumstances recorded in writing) that such uni-
7 versity may not be so exempt, and

8 “(C) in the case of such inquiry serving as
9 a basis for determining whether the university
10 is carrying on an unrelated trade or business
11 (within the meaning of section 513) or other-
12 wise engaged in activities which may be subject
13 to taxation under this title, an appropriate
14 high-level Treasury official reasonably believes
15 (on the basis of facts and circumstances re-
16 corded in writing) that such university may be
17 carrying on such an unrelated trade or business
18 or engaged in such activities.

19 “(3) INQUIRY NOTICE REQUIREMENT.—

20 “(A) IN GENERAL.—The requirement of
21 this paragraph is met with respect to any uni-
22 versity tax inquiry if, before beginning such in-
23 quiry, the Secretary provides written notice to
24 the university of the beginning of such inquiry.

1 “(B) CONTENTS OF INQUIRY NOTICE.—

2 The notice required by this paragraph shall in-
3 clude—

4 “(i) an explanation of—

5 “(I) the concerns which gave rise
6 to such inquiry, and

7 “(II) the general subject matter
8 of such inquiry, and

9 “(ii) a general explanation of the ap-
10 plicable—

11 “(I) administrative and constitu-
12 tional provisions with respect to such
13 inquiry (including the right to a con-
14 ference with the Secretary before any
15 examination of university business
16 records or university activities), and

17 “(II) provisions of this title
18 which authorize such inquiry or which
19 may be otherwise involved in such in-
20 quiry.

21 “(b) RESTRICTIONS ON EXAMINATIONS.—

22 “(1) IN GENERAL.—

23 “(A) PRECONDITIONS.—The Secretary
24 may begin a university tax examination only—

1 “(i) following the beginning of a uni-
2 versity tax inquiry under subsection (a)
3 into the university to be examined,

4 “(ii) subject to subparagraph (B), and

5 “(iii) if the requirement of paragraph
6 (2) has been met.

7 “(B) BUSINESS RECORDS AND ACTIVI-
8 TIES.—A university tax examination may be
9 made only—

10 “(i) in the case of university business
11 records, to the extent necessary to deter-
12 mine the liability for, and the amount of,
13 any taxation imposed by this title, and

14 “(ii) in the case of university activi-
15 ties, to the extent necessary to determine
16 whether a university claiming—

17 “(I) any income to be excludable
18 from taxation under section 115 is so
19 excludable, or

20 “(II) to be exempt from taxation
21 under section 501(a) is so exempt.

22 “(2) NOTICE OF EXAMINATION; OPPORTUNITY
23 FOR CONFERENCE.—The requirement of this para-
24 graph is met with respect to any university tax ex-
25 amination if—

1 “(A) at least 15 days before the beginning
2 of such examination, the Secretary provides the
3 notice described in paragraph (3) to both the
4 university and the appropriate Division Counsel
5 of the Internal Revenue Service, and

6 “(B) the university has a reasonable time
7 to participate in a conference described in para-
8 graph (3)(A)(iii), but only if the university re-
9 quests such a conference before the beginning
10 of the examination.

11 “(3) CONTENTS OF EXAMINATION NOTICE,
12 ETC.—

13 “(A) IN GENERAL.—The notice described
14 in this paragraph is a written notice which in-
15 cludes—

16 “(i) a copy of the university tax in-
17 quiry notice provided to the university
18 under subsection (a),

19 “(ii) a description of the university
20 business records and university activities
21 which the Secretary seeks to examine,

22 “(iii) an offer to have a conference be-
23 tween the university and the Secretary in
24 order to discuss, and attempt to resolve,
25 concerns relating to such examination, and

1 “(iv) a copy of all documents which
2 were collected or prepared by the Internal
3 Revenue Service for use in such examina-
4 tion and the disclosure of which is required
5 by the Freedom of Information Act.

6 “(B) EARLIEST DAY EXAMINATION NOTICE
7 MAY BE PROVIDED.—The examination notice
8 described in this paragraph shall not be pro-
9 vided to the university before the 15th day after
10 the date on which the university tax inquiry no-
11 tice was provided to the university under sub-
12 section (a).

13 “(C) OPINION OF DIVISION COUNSEL WITH
14 RESPECT TO EXAMINATION.—The Division
15 Counsel of the Internal Revenue Service who re-
16 ceives an examination notice under paragraph
17 (2)(A) may, within 15 days after such notice is
18 provided, submit to the Secretary an advisory
19 objection to the examination.

20 “(4) EXAMINATION OF BUSINESS RECORDS AND
21 ACTIVITIES NOT SPECIFIED IN NOTICE.—Within the
22 course of a university tax examination which (at the
23 time the examination begins) satisfies the pre-
24 conditions of paragraph (1)(A), the Secretary may
25 examine any university business records or univer-

1 sity activities which were not specified in the exam-
2 ination notice to the extent such examination meets
3 the requirement of clause (i) or (ii) of paragraph
4 (1)(B) (whichever applies).

5 “(c) LIMITATION ON PERIOD OF INQUIRIES AND EX-
6 AMINATIONS.—

7 “(1) INQUIRIES AND EXAMINATIONS MUST BE
8 COMPLETED WITHIN 2 YEARS.—

9 “(A) IN GENERAL.—The Secretary shall
10 complete any university tax inquiry or examina-
11 tion (and make a final determination with re-
12 spect thereto) not later than the date which is
13 2 years after the examination notice date.

14 “(B) INQUIRIES NOT FOLLOWED BY EX-
15 AMINATIONS.—In the case of a university tax
16 inquiry with respect to which there is no exam-
17 ination notice under subsection (b), the Sec-
18 retary shall complete such inquiry (and make a
19 final determination with respect thereto) not
20 later than the date which is 90 days after the
21 inquiry notice date.

22 “(2) SUSPENSION OF 2-YEAR PERIOD.—The
23 running of the 2-year period described in paragraph
24 (1)(A) and the 90-day period in paragraph (1)(B)
25 shall be suspended—

1 “(A) for any period during which—

2 “(i) a judicial proceeding brought by
3 the university against the Secretary with
4 respect to the university tax inquiry or ex-
5 amination is pending or being appealed,

6 “(ii) a judicial proceeding brought by
7 the Secretary against the university (or
8 any official thereof) to compel compliance
9 with any reasonable request of the Sec-
10 retary in a university tax examination for
11 examination of university business records
12 or university activities is pending or being
13 appealed, or

14 “(iii) the Secretary is unable to take
15 actions with respect to the university tax
16 inquiry or examination by reason of an
17 order issued in any judicial proceeding
18 brought under section 7609,

19 “(B) for any period in excess of 20 days
20 (but not in excess of 6 months) in which the
21 university or its agents fail to comply with any
22 reasonable request of the Secretary for univer-
23 sity business records or other information, or

24 “(C) for any period mutually agreed upon
25 by the Secretary and the university.

1 “(d) LIMITATIONS ON DETERMINATIONS BY SEC-
2 RETARY, ETC.—

3 “(1) IN GENERAL.—The Secretary may—

4 “(A) determine that—

5 “(i) any income derived by a univer-
6 sity is not excludable from taxation under
7 section 115, or

8 “(ii) a university is not exempt from
9 taxation under section 501(a),

10 “(B) send a notice of deficiency of any tax
11 involved in a university tax examination, or

12 “(C) in the case of any tax with respect to
13 which subchapter B of chapter 63 does not
14 apply, assess any underpayment of such tax in-
15 volved in a university tax examination,

16 only if the appropriate Division Counsel of the Inter-
17 nal Revenue Service determines in writing that there
18 has been substantial compliance with the require-
19 ments of this section and approves in writing of such
20 inclusion of income, revocation of status, notice of
21 deficiency, or assessment.

22 “(2) LIMITATIONS ON PERIOD OF ASSESS-
23 MENT.—

24 “(A) INCLUSION OF INCOME AND REVOCATION OF TAX-EXEMPT STATUS.—
25

1 “(i) 3-YEAR STATUTE OF LIMITATIONS
2 GENERALLY.—In the case of any university
3 tax examination with respect to—

4 “(I) the inclusion under section
5 115 of any income previously excluded
6 from taxation under such section, or

7 “(II) the revocation of tax-ex-
8 empt status under section 501(a),
9 any tax imposed by chapter 1 (other than
10 section 511) may be assessed, or a pro-
11 ceeding in court for collection of such tax
12 may be begun without assessment, only for
13 the 3 most recent taxable years ending be-
14 fore the examination notice date.

15 “(ii) 6-YEAR STATUTE OF LIMITA-
16 TIONS IN CERTAIN CASES.—If the univer-
17 sity—

18 “(I) derives no income which is
19 excludable from taxation under sec-
20 tion 115, and

21 “(II) is not exempt from taxation
22 under section 501(a),
23 for any of the 3 taxable years described in
24 clause (i), clause (i) shall be applied by

1 substituting ‘6 most recent taxable years’
2 for ‘3 most recent taxable years’.

3 “(B) UNRELATED BUSINESS TAX.—In the
4 case of any university tax examination with re-
5 spect to the tax imposed by section 511, such
6 tax may be assessed, or a proceeding in court
7 for the collection of such tax may be begun
8 without assessment, only with respect to the 6
9 most recent taxable years ending before the ex-
10 amination notice date.

11 “(C) EXCEPTION WHERE SHORTER STAT-
12 UTE OF LIMITATIONS OTHERWISE APPLICA-
13 BLE.—Subparagraphs (A) and (B) shall not be
14 construed to increase the period otherwise ap-
15 plicable under subchapter A of chapter 66.

16 “(e) INFORMATION NOT COLLECTED IN SUBSTAN-
17 TIAL COMPLIANCE WITH PROCEDURES TO STAY SUM-
18 MONS PROCEEDING.—

19 “(1) IN GENERAL.—If there has not been sub-
20 stantial compliance with—

21 “(A) the notice requirements of subsection
22 (a) or (b),

23 “(B) the conference requirement described
24 in subsection (b)(3)(A)(iii), or

1 “(C) the approval requirement of sub-
2 section (d)(1) (if applicable),
3 with respect to any university tax inquiry or exam-
4 ination, any proceeding to compel compliance with
5 any summons with respect to such inquiry or exam-
6 ination shall be stayed until the court finds that all
7 practicable steps to correct the noncompliance have
8 been taken. The period applicable under paragraph
9 (1) of subsection (c) shall not be suspended during
10 the period of any stay under the preceding sentence.

11 “(2) REMEDY TO BE EXCLUSIVE.—No suit may
12 be maintained, and no defense may be raised in any
13 proceeding (other than as provided in paragraph
14 (1)), by reason of any noncompliance by the Sec-
15 retary with the requirements of this section.

16 “(f) LIMITATIONS ON ADDITIONAL INQUIRIES AND
17 EXAMINATIONS.—

18 “(1) IN GENERAL.—If any university tax in-
19 quiry or examination with respect to any university
20 is completed and does not result in—

21 “(A) an inclusion of income, revocation of
22 status, notice of deficiency, or assessment de-
23 scribed in subsection (d)(1), or

24 “(B) a request by the Secretary for any
25 significant change in the operational practices

1 of the university (including the adequacy of ac-
2 counting practices),
3 no other university tax inquiry or examination may
4 begin with respect to such university during the ap-
5 plicable 5-year period unless such inquiry or exam-
6 ination is approved in writing by the Secretary or
7 does not involve the same or similar issues involved
8 in the preceding inquiry or examination. For pur-
9 poses of the preceding sentence, an inquiry or exam-
10 ination shall be treated as completed not later than
11 the expiration of the applicable period under para-
12 graph (1) of subsection (c).

13 “(2) APPLICABLE 5-YEAR PERIOD.—For pur-
14 poses of paragraph (1), the term ‘applicable 5-year
15 period’ means the 5-year period beginning on the
16 date the notice taken into account for purposes of
17 subsection (c)(1) was provided. For purposes of the
18 preceding sentence, the rules of subsection (c)(2)
19 shall apply.

20 “(g) TREATMENT OF FINAL REPORT OF REVENUE
21 AGENT.—Any final report of an agent of the Internal Rev-
22 enue Service shall be treated as a determination of the
23 Secretary under paragraph (1) of section 7428(a), and
24 any university receiving such a report shall be treated for

1 purposes of sections 7428 and 7430 as having exhausted
2 the administrative remedies available to it.

3 “(h) REPORTING REQUIREMENT.—Not later than 60
4 days after the beginning of any university tax inquiry or
5 examination, the Secretary shall transmit to the appro-
6 priate congressional committees a confidential report that
7 includes—

8 “(1) the identity of the university subject to the
9 tax inquiry or examination,

10 “(2) an attestation that the requirements of
11 subsection (a)(1) or (b)(1)(A) (whichever applies)
12 have been met,

13 “(3) a copy of the university tax inquiry notice
14 or the university tax examination notice provided to
15 the university under subsection (a) or (b), respec-
16 tively (whichever applies), and

17 “(4) a copy of all finalized and officially pro-
18 posed regulations relating to the interpretation and
19 implementation of this section.

20 “(i) DEFINITIONS.—For purposes of this section—

21 “(1) UNIVERSITY.—The term ‘university’
22 means—

23 “(A) any institution of higher education
24 (as defined under section 102 of the Higher
25 Education Act of 1965), and

1 “(B) any related organization (as defined
2 under section 4968(g)(2)) of such an institu-
3 tion.

4 “(2) UNIVERSITY TAX INQUIRY.—The term
5 ‘university tax inquiry’ means any inquiry into a
6 university (other than an examination) to serve as a
7 basis for determining whether—

8 “(A) any income derived by the university
9 is excludable from taxation under section 115,

10 “(B) the university is exempt from tax-
11 ation under section 501(a), or

12 “(C) the university is carrying on an unre-
13 lated trade or business (within the meaning of
14 section 513) or otherwise engaged in activities
15 which may be subject to taxation under this
16 title.

17 “(3) UNIVERSITY TAX EXAMINATION.—The
18 term ‘university tax examination’ means, for pur-
19 poses of making a determination described in para-
20 graph (2), any examination of—

21 “(A) university business records at the re-
22 quest of the Internal Revenue Service, or

23 “(B) university activities.

24 “(4) UNIVERSITY BUSINESS RECORDS.—

1 “(A) IN GENERAL.—The term ‘university
2 business records’ means all corporate and finan-
3 cial records regularly kept by a university.

4 “(B) EXCEPTION.—Such term shall not in-
5 clude records acquired—

6 “(i) pursuant to a summons to which
7 section 7609 applies, or

8 “(ii) from any governmental agency.

9 “(5) UNIVERSITY ACTIVITIES.—The term ‘uni-
10 versity activities’—

11 “(A) means any activities relating to the
12 academic or bureaucratic operation of the uni-
13 versity, including—

14 “(i) any affiliations or ideological posi-
15 tions of, or advocacy by, the university,
16 and

17 “(ii) the curricular or scholastic con-
18 tent that the university provides to its stu-
19 dents, but

20 “(B) does not include university business
21 records.

22 “(6) INQUIRY NOTICE DATE.—The term ‘in-
23 quiry notice date’ means the date the notice with re-
24 spect to a university tax inquiry is provided under
25 subsection (a) to the university.

1 “(7) EXAMINATION NOTICE DATE.—The term
2 ‘examination notice date’ means the date the notice
3 with respect to a university tax examination is pro-
4 vided under subsection (b) to the university.

5 “(8) APPROPRIATE HIGH-LEVEL TREASURY OF-
6 FICIAL.—The term ‘appropriate high-level Treasury
7 official’ means the Secretary of the Treasury or any
8 delegate of the Secretary whose rank is no lower
9 than that of a principal Internal Revenue officer for
10 an internal revenue district.

11 “(9) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term ‘appropriate congressional com-
13 mittees’ means—

14 “(A) the Committee on Ways and Means
15 of the House of Representatives, and

16 “(B) the Committee on Finance of the
17 Senate.

18 “(j) SECTION NOT TO APPLY TO CRIMINAL INVES-
19 TIGATIONS, ETC.—This section shall not apply to—

20 “(1) any criminal investigation,

21 “(2) any inquiry or examination relating to the
22 tax liability of any person other than a university,

23 “(3) any assessment under section 6851, 6852,
24 or 6861,

1 “(4) any willful attempt to defeat or evade any
2 tax imposed by this title, or

3 “(5) any knowing failure to file a return of tax
4 imposed by this title.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) The table of sections for subchapter A of
7 chapter 78 of such Code is amended by striking the
8 item relating to section 7613 and inserting the fol-
9 lowing new items:

“Sec. 7613. Restrictions on university tax inquiries and examinations.
“Sec. 7614. Cross references.”.

10 (2) Section 7605(c) of such Code is amended to
11 read as follows:

12 “(c) CROSS REFERENCES.—

13 “(1) RESTRICTIONS ON CHURCH TAX INQUIRIES
14 AND EXAMINATIONS.—For provisions restricting
15 church tax inquiries and examinations, see section
16 7611.

17 “(2) RESTRICTIONS ON UNIVERSITY TAX IN-
18 QUIRIES AND EXAMINATIONS.—For provisions re-
19 stricting university tax inquiries and examinations,
20 see section 7613.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to inquiries and ex-
23 aminations beginning after the date of the enactment of
24 this Act.