I

119TH CONGRESS
1ST SESSION

H. R. 3223

To amend the Internal Revenue Code of 1986 to establish procedures relating to the attribution of errors in the case of third party payors of payroll taxes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2025

Mr. THOMPSON of California (for himself and Ms. VAN DUYNE) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1986 to establish procedures relating to the attribution of errors in the case of third party payors of payroll taxes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ATTRIBUTION OF ERRORS IN THE CASE OF THIRD PARTY PAYORS OF PAYROLL TAXES.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding a new section 3513 to read as follows:

"SEC. 3513. THIRD PARTY PAYORS OF PAYROLL TAXES.

"(a) CERTIFICATION.—A third party payor may, in the course of carrying out any requirement imposed under this subtitle, rely on a certification by the applicable employer unless such third party payor has constructive knowledge of an error in such certification. For purposes of this section, the term 'certification' includes a representation, attestation, or similar document.

"(b) LIABILITY FOR ERROR.—For the purpose of imposing any liability with respect to an act carried out by a third party payor—

"(1) in the case of a third party payor with constructive knowledge of an error—

"(A) the employer shall be responsible for such liability; and

"(B) the third party payor shall be responsible for such liability, but only with respect to so much of the liability as is attributable to a portion of the certification with respect to which the third party payor had constructive knowledge of the error; or

"(2) in the case of a certification with respect to which the third party payor did not have constructive knowledge of an error, the employer shall have sole responsibility for any liability arising from such error.

"(c) LIABILITY.—For purposes of subsection (b), the term 'liability' means any amount due under this subtitle, and any interest or penalties due with respect to such amount under this title.

"(d) EFFECT OF ERROR ON OTHER EMPLOYERS.—The Secretary may not delay the processing of any payroll tax credit claimed by a third party payor on behalf of an employer or initiate an audit or examination of such employer solely because such payroll tax credit was claimed by a third party payor that filed an erroneous return of tax in reliance on a certification of another employer.

"(e) RECORD RETENTION.—The Secretary may require a third party payor to provide any information in possession of such third party payor to the Secretary in relation to an employer that the Secretary could require such employer to provide to the Secretary.

"(f) CONSTRUCTIVE KNOWLEDGE.—For purposes of this section, the term 'constructive knowledge' means, with respect to a third party payor, that such third party payor knew or should have known of an error in a certification described in subsection (a). However, with respect to any payroll tax credit claimed by a third party payor on behalf of an employer, such third party payor will be deemed not to have constructive knowledge of an error in a certification with respect to such payroll tax credit if—

"(1) such certification provides that the employer is entitled to the payroll tax credit;

"(2) the third party payor accurately reported the payroll tax credit in accordance with information certified by the employer; and

"(3) prior to claiming the payroll tax credit, the third party payor verified the amount of aggregate wages paid by the third party payor used by the employer in establishing the amount of the payroll tax credit.

"(g) THIRD PARTY PAYOR.—For purposes of this section, the term 'third party payor' includes a fiduciary, agent, or other person described in section 3504, a professional employer organization, or a certified professional employer organization.".

(b) EFFECTIVE DATE.—This section shall apply to audits, examinations, and assessments initiated or made after the date of enactment.

○