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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to terminate the tax-exempt status of terrorist supporting organizations.

IN THE HOUSE OF REPRESENTATIVES

Mr. KUSTOFF introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to terminate the tax-exempt status of terrorist supporting organizations.

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. TERMINATION OF TAX-EXEMPT STATUS OF**
4 **TERRORIST SUPPORTING ORGANIZATIONS.**

5 (a) IN GENERAL.—Section 501(p) of the Internal
6 Revenue Code of 1986 is amended by adding at the end
7 the following new paragraph:

8 “(8) APPLICATION TO TERRORIST SUPPORTING
9 ORGANIZATIONS.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, in the case of any terrorist sup-
3 porting organization—

4 “(i) such organization (and the des-
5 ignation of such organization under sub-
6 paragraph (B)) shall be treated as de-
7 scribed in paragraph (2), and

8 “(ii) the period of suspension de-
9 scribed in paragraph (3) with respect to
10 such organization shall be treated as begin-
11 ning on the date that the Secretary des-
12 ignates such organization under subpara-
13 graph (B) and ending on the date that the
14 Secretary rescinds such designation under
15 subparagraph (D).

16 “(B) TERRORIST SUPPORTING ORGANIZA-
17 TION.—For purposes of this paragraph—

18 “(i) IN GENERAL.—the term ‘terrorist
19 supporting organization’ means any orga-
20 nization which is designated by the Sec-
21 retary as having provided, during the 3-
22 year period ending on the date of such des-
23 ignation, material support or resources to
24 an organization described in paragraph (2)
25 (determined after the application of this

1 paragraph to such organization) in excess
2 of a de minimis amount.

3 “(ii) MATERIAL SUPPORT OR RE-
4 SOURCES.—The term ‘material support or
5 resources’ has the meaning given such
6 term in subsection (g)(4) of section 2339B
7 of title 18, United States Code, except that
8 such term shall not include—

9 “(I) support or resources that
10 were approved by the Secretary of
11 State with the concurrence of the At-
12 torney General for purposes of sub-
13 section (j) of such section, or

14 “(II) humanitarian aid provided
15 with the approval of the Office of For-
16 eign Assets Control.

17 “(C) DESIGNATION PROCEDURE.—

18 “(i) NOTICE REQUIREMENT.—Prior to
19 designating any organization as a terrorist
20 supporting organization under subpara-
21 graph (B), the Secretary shall mail to the
22 most recent mailing address provided by
23 such organization on the organization’s an-
24 nual return or notice under section 6033

1 (or subsequent form indicating a change of
2 address) a written notice which includes—

3 “(I) a statement that the Sec-
4 retary will designate such organization
5 as a terrorist supporting organization
6 unless the organization satisfies the
7 requirements of subclause (I) or (II)
8 of clause (ii),

9 “(II) the name of the organiza-
10 tion or organizations with respect to
11 which the Secretary has determined
12 such organization provided material
13 support or sources as described in
14 subparagraph (B),

15 “(III) a description of such mate-
16 rial support or resources except to the
17 extent that the Secretary determines
18 that disclosure of such description
19 would be inconsistent with national
20 security or law enforcement interests,
21 and

22 “(IV) if the Secretary makes the
23 determination described in subclause
24 (III), a statement that the Secretary
25 has made such determination and that

1 all or part of the description of such
2 material support or resources is not
3 included in such notice by reason of
4 such determination.

5 “(ii) OPPORTUNITY TO CURE.—In the
6 case of any notice provided to an organiza-
7 tion under clause (i), the Secretary shall,
8 at the close of the 90-day period beginning
9 on the date that such notice was sent, des-
10 ignate such organization as a terrorist sup-
11 porting organization under subparagraph
12 (B) if (and only if) such organization has
13 not (during such period)—

14 “(I) demonstrated to the satisfac-
15 tion of the Secretary that such organi-
16 zation did not provide the material
17 support or resources referred to in
18 subparagraph (B),

19 “(II) made reasonable efforts to
20 have such support or resources re-
21 turned to such organization and cer-
22 tified in writing to the Secretary that
23 such organization will not provide any
24 further support or resources to orga-

1 nizations described in paragraph (2),
2 or

3 “(III) if such notice included a
4 statement described in clause (i)(IV),
5 filed a complaint with a United States
6 district court of competent jurisdiction
7 alleging that Secretary’s determina-
8 tion under clause (i)(III) is erroneous.

9 A certification under subclause (II) shall
10 not be treated as valid if the organization
11 making such certification has provided any
12 other such certification during the pre-
13 ceding 5 years.

14 “(iii) APPLICATION OF OPPORTUNITY
15 TO CURE FOLLOWING COMPLAINT REGARD-
16 ING DETERMINATION TO WITHHOLD DE-
17 SCRIPTION OF MATERIAL SUPPORT OR RE-
18 SOURCES.—In the case of a final judgment
19 of a court of competent jurisdiction that
20 the Secretary’s determination under clause
21 (i)(III) was not erroneous, clause (ii) shall
22 be applied without regard to subclause
23 (III) thereof and as though the notice re-
24 ferred to in such clause was sent on the
25 first date that all rights of appeal with re-

1 spect to such final judgement have con-
2 cluded.

3 “(D) RESCISSION.—The Secretary shall re-
4 scind a designation under subparagraph (B) if
5 (and only if)—

6 “(i) the Secretary determines that
7 such designation was erroneous,

8 “(ii) after the Secretary receives a
9 written certification from an organization
10 that such organization did not receive the
11 notice described in subparagraph (C)(i)—

12 “(I) the Secretary determines
13 that it is reasonable to believe that
14 such organization did not receive such
15 notice, and

16 “(II) such organization satisfies
17 the requirements of subclause (I) or
18 (II) of subparagraph (C)(ii) (deter-
19 mined after taking into account the
20 last sentence thereof), or

21 “(iii) the Secretary determines, with
22 respect to all organizations to which the
23 material support or resources referred to
24 in subparagraph (B) were provided, the pe-

1 riods of suspension under paragraph (3)
2 have ended.

3 A certification described in the matter pre-
4 ceding subclause (I) of clause (ii) shall not be
5 treated as valid if the organization making such
6 certification has provided any other such certifi-
7 cation during the preceding 5 years.

8 “(E) ADMINISTRATIVE REVIEW BY INTER-
9 NAL REVENUE SERVICE INDEPENDENT OFFICE
10 OF APPEALS.—In the case of the designation of
11 an organization by the Secretary as a terrorist
12 supporting organization under subparagraph
13 (B), a dispute regarding such designation shall
14 be subject to resolution by the Internal Revenue
15 Service Independent Office of Appeals under
16 section 7803(e) in the same manner as if such
17 designation were made by the Internal Revenue
18 Service and paragraph (5) of this subsection
19 did not apply.

20 “(F) JURISDICTION OF UNITED STATES
21 COURTS.—Notwithstanding paragraph (5), the
22 United States district courts shall have exclu-
23 sive jurisdiction to review any determination of
24 the Secretary under subparagraph (C)(i)(III)
25 and any final determination with respect to an

1 organization's designation as a terrorist sup-
2 porting organization under subparagraph (B).
3 In the case of any such determination which
4 was based on classified information (as defined
5 in section 1(a) of the Classified Information
6 Procedures Act), such information may be sub-
7 mitted to the reviewing court ex parte and in
8 camera. For purposes of this subparagraph, a
9 determination with respect to an organization's
10 designation as a terrorist supporting organiza-
11 tion shall not fail to be treated as a final deter-
12 mination merely because such organization fails
13 to utilize the dispute resolution process of the
14 Internal Revenue Service Independent Office of
15 Appeals provided under subparagraph (E).

16 “(G) CLASSIFIED INFORMATION.—The
17 Secretary shall establish policies and procedures
18 for purposes of this paragraph that ensure that
19 employees of the Department of the Treasury
20 comply with all laws regarding the handling and
21 review of classified information (as defined in
22 section 1(a) of the Classified Information Pro-
23 cedures Act).”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to designations made after the date

1 of the enactment of this Act in taxable years ending after
2 such date.