

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6408
OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. TERMINATION OF TAX-EXEMPT STATUS OF**
2 **TERRORIST SUPPORTING ORGANIZATIONS.**

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

6 “(8) APPLICATION TO TERRORIST SUPPORTING
7 ORGANIZATIONS.—

8 “(A) IN GENERAL.—For purposes of this
9 subsection, in the case of any terrorist sup-
10 porting organization—

11 “(i) such organization (and the des-
12 ignation of such organization under sub-
13 paragraph (B)) shall be treated as de-
14 scribed in paragraph (2), and

15 “(ii) the period of suspension de-
16 scribed in paragraph (3) with respect to
17 such organization shall be treated as begin-
18 ning on the date that the Secretary des-

1 ignates such organization under subpara-
2 graph (B) and ending on the date that the
3 Secretary rescinds such designation under
4 subparagraph (D).

5 “(B) TERRORIST SUPPORTING ORGANIZA-
6 TION.—For purposes of this paragraph, the
7 term ‘terrorist supporting organization’ means
8 any organization which is designated by the
9 Secretary as having provided, during the 3-year
10 period ending on the date of such designation,
11 material support or resources (within the mean-
12 ing of section 2339B of title 18, United States
13 Code) to an organization described in para-
14 graph (2) (determined after the application of
15 this paragraph to such organization) in excess
16 of a de minimis amount.

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), and

15 “(III) a description of such mate-
16 rial support or resources to the extent
17 consistent with national security and
18 law enforcement interests.

19 “(ii) OPPORTUNITY TO CURE.—In the
20 case of any notice provided to an organiza-
21 tion under clause (i), the Secretary shall,
22 at the close of the 90-day period beginning
23 on the date that such notice was sent, des-
24 ignate such organization as a terrorist sup-
25 porting organization under subparagraph

1 (B) if (and only if) such organization has
2 not (during such period)—

3 “(I) demonstrated to the satisfac-
4 tion of the Secretary that such organi-
5 zation did not provide the material
6 support or resources referred to in
7 subparagraph (B), or

8 “(II) made reasonable efforts to
9 have such support or resources re-
10 turned to such organization and cer-
11 tified in writing to the Secretary that
12 such organization will not provide any
13 further support or resources to orga-
14 nizations described in paragraph (2).

15 A certification under subclause (II) shall
16 not be treated as valid if the organization
17 making such certification has provided any
18 other such certification during the pre-
19 ceding 5 years.

20 “(D) RESCISSION.—The Secretary shall re-
21 scind a designation under subparagraph (B) if
22 (and only if)—

23 “(i) the Secretary determines that
24 such designation was erroneous,

1 “(ii) after the Secretary receives a
2 written certification from an organization
3 that such organization did not receive the
4 notice described in subparagraph (C)(i)—

5 “(I) the Secretary determines
6 that it is reasonable to believe that
7 such organization did not receive such
8 notice, and

9 “(II) such organization satisfies
10 the requirements of subclause (I) or
11 (II) of subparagraph (C)(ii) (deter-
12 mined after taking into account the
13 last sentence thereof), or

14 “(iii) the Secretary determines, with
15 respect to all organizations to which the
16 material support or resources referred to
17 in subparagraph (B) were provided, the pe-
18 riods of suspension under paragraph (3)
19 have ended.

20 A certification described in the matter pre-
21 ceding subclause (I) of clause (II) shall not be
22 treated as valid if the organization making such
23 certification has provided any other such certifi-
24 cation during the preceding 5 years.

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

13 “(F) JURISDICTION OF UNITED STATES
14 COURTS.—Notwithstanding paragraph (5), the
15 United States district courts shall have exclu-
16 sive jurisdiction to review a final determination
17 with respect to an organization’s designation as
18 a terrorist supporting organization under sub-
19 paragraph (B). In the case of any such deter-
20 mination which was based on classified informa-
21 tion (as defined in section 1(a) of the Classified
22 Information Procedures Act), such information
23 may be submitted to the reviewing court ex
24 parte and in camera. For purposes of this sub-
25 paragraph, a determination with respect to an

1 organization's designation as a terrorist sup-
2 porting organization shall not fail to be treated
3 as a final determination merely because such
4 organization fails to utilize the dispute resolu-
5 tion process of the Internal Revenue Service
6 Independent Office of Appeals provided under
7 subparagraph (E).”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to designations made after the date
10 of the enactment of this Act in taxable years ending after
11 such date.

