

US Taxpayer Bill of Rights

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Internal Revenue Code 7803(a)

- In discharging his duties, the Commissioner shall ensure that employees of the IRS are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title, including –
 - (A) the right to be informed,
 - (B) the right to quality service,
 - (C) the right pay no more than the correct amount of tax,

IRC 7803(a)(3) cont'd

- (D) the right to challenge the position of the Internal Revenue Service and be heard,
(E) the right to appeal a decision of the Internal Revenue Service in an independent forum,
(F) the right to finality,
(G) the right to privacy,
(H) the right to confidentiality,
(I) the right to a fair and just tax system,

IRC 7803(a)(3) cont'd

- (J) the right to a fair and just tax system.

See taxpayeradvocate.irs.gov/taxpayer-rights

The right to be informed

- Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

The Right to Quality Service

- Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

The Right to Pay No More than the Correct Amount of Tax

- Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and the have the IRS apply all tax payments properly.

The Right to Challenge the IRS's Position and Be Heard

- Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

The Right to Appeal an IRS Decision in an Independent Forum

- Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

The Right to Finality

- Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

The Right to Privacy

- Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

The Right to Confidentiality

- Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

The Right to Retain Representation

- Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

The Right to a Fair and Just Tax System

- Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Office of the Taxpayer Advocate

- Internal Revenue Code § 7803(c) describes the mission and duties of the office:
- Assist taxpayers in resolving problems with the Internal Revenue Service (IRS);
- Identify areas in which taxpayers have problems in dealings with the IRS;
- To the extent possible, propose changes in the administrative practices of the IRS to mitigate problems identified; and
- Identify potential legislative changes which may be appropriate to mitigate such problems.

How Does TAS Accomplish its Mission?

- Case Advocacy: 76 Local Taxpayer Advocate offices advocate with respect to specific taxpayer cases; by statute, at least one must be located in each state; includes Technical Advisors as subject matter experts.
- Systemic Advocacy: Analysts identify, analyze, and advocate with respect to systemic taxpayer problems; participate in IRS teams; review IRS guidance to employees.

Key Attributes of an Effective Taxpayer Advocate/Ombuds

- Independence
- Transparency
- Question: How to achieve this while maintaining open communication with the tax agency?
- Question: How to gain and keep taxpayer trust if advocate/ombuds is within the tax agency?

Independence

- Appointment Authority of National Taxpayer Advocate -- IRC 7803(c)(1)(B)(ii)
- Career Path Limitations -- IRC 7803(c)(1)(B)(iv)
- Mandatory Statement of Independence -- IRC 7803(c)(4)(A)(iii)
- Confidentiality -- IRC 7803(c)(4)(A)(iv)
- Communications -- IRC 7803(c)(4)(B)
- Taxpayer Assistance Order (TAO) -- IRC § 7811
- Taxpayer Advocate Directive (TAD) -- Del. Order

Mandatory Statement of Independence

- Each local taxpayer advocate shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other IRS office and report directly to Congress through the National Taxpayer Advocate. IRC 7803(c)(4)(A)(iii).

Confidentiality

- Each local taxpayer advocate may, at the taxpayer advocate's discretion, not disclose to the IRS contact with, or information provided by, such taxpayer. IRC 7803(c)(4)(A)(iv).

Communications

- Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address. IRC 7803(c)(4)(B).

Taxpayer Assistance Order (TAO)

- Issued by the National Taxpayer Advocate (and her delegates) where the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary. IRC 7811(a)(1).
- Significant Hardship = economic burden; systemic burden; impairment of taxpayer rights. IRC 7811(a)(2).

Taxpayer Assistance Order

- May require the Secretary of the Treasury within a specified time period to:
 - (1) to release property of the taxpayer levied upon, or
 - (2) to cease any action, take any action as permitted by law, or refrain from taking any action, with respect to the taxpayer [with respect to collection, bankruptcy and receiverships, discovery of liability and enforcement of title,] or any other provision of law which is specifically described by the National Taxpayer Advocate in such order. IRC 7811(b)(1) and (2).

Taxpayer Assistance Order (cont'd)

- Any TAO issued by the NTA may be modified or rescinded –
 - (1) only by the NTA, the Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue, and
 - (2) only if a written explanation of the reasons for the modification or rescission is provided to the NTA. IRC 7811(c).

Taxpayer Assistance Order (cont'd)

- BUT, in her Annual Report to Congress, the NTA must:
“Identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner”
IRC 7803(c)(2)(B)(ii)(VII).

Taxpayer Advocate Directive (TAD)

- Similar to Taxpayer Assistance Order, but applies to group of taxpayers, or all taxpayers.
- Delegated to the NTA by the Commissioner.
- Appealable to the Deputy Commissioner.
- NTA Recommendation to codify TAD authority.

Transparency

- Annual Reports to Congress:
 - (1) Objectives Report to Congress: delivered by June 30 of each year, NTA reports on objectives of her office for the upcoming fiscal year, including “full and substantive analysis, in addition to statistical information.”
 - (2) Annual Report to Congress: delivered by December 31 of each year, NTA reports on the activities of her office during the past fiscal year.

Transparency

- Interaction with Independence:
“Each report . . . Shall be provided directly to the [Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate] without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management or Budget.” IRC 7803(c)(2)(B)(iii).

Objectives Report

- Filing Season Analysis
- Areas of Focus for upcoming fiscal year (i.e., systemic issues)
- TAS operational focus for upcoming fiscal year
- IRS responses to prior year's Annual Report administrative recommendations.

Annual Report to Congress

- Most Serious Problems: “a summary of the most serious problems encountered by taxpayers, including a description of the nature of such problems” along with “recommendations . . . as may be appropriate to resolve problems encountered by taxpayers.” IRC 7803(c)(2)(B)(ii)(III) and (VIII).

Annual Report to Congress (cont'd)

- Legislative Recommendations “as may be appropriate to resolve problems encountered by taxpayers.” IRC 7803(c)(2)(B)(ii)(VIII); and
- Identify areas of the tax law that impose significant compliance burdens on taxpayers or the IRS, including specific recommendations for remedying these problems. IRC 7803(c)(2)(B)(ii)(IX).

Annual Report to Congress (cont'd)

- Most Litigated Issues: “identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes.” IRC 7803(c)(2)(B)(ii)(X)
- And “Include such other information as the National Taxpayer Advocate may deem advisable.” IRC 7803(c)(2)(B)(ii)(XI). [The NTA’s favorite provision!]

TAS Promotes Taxpayer Trust

- TAS casework serves as a check on the coercive power of the tax agency.
- The taxpayer can have some expectation that if he makes a mistake or experiences some kind of hardship, there is an entity that can ensure the government takes into consideration those specific circumstances. (The right to a fair and just tax system.)

TAS Promotes Taxpayer Trust (cont'd)

- TAS ensures not only that taxpayers can present their case to the IRS but that the IRS listens to the taxpayers (the right to challenge the IRS and be heard) and provides explanations for its actions (the right to be informed).
- Through the Low Income Taxpayer Clinic Grant program, TAS ensures that taxpayers have access to legal representation regardless of income level (the right to retain representation).

TAS Promotes Taxpayer Trust (cont'd)

- About 48% of TAS taxpayers who received relief in their TAS cases felt more positive about the IRS as a result of their interaction with TAS.
- About 36% of TAS taxpayers who *did not* receive relief in their TAS cases still felt more positive about the IRS as a result of their interaction with TAS.

[TAS Customer Satisfaction Surveys, through 3rd quarter FY 2015.]

Challenges

- Independent Counsel
- Independent Budget/Appropriations
- Amicus Brief Authority
- Agency acknowledgement and acceptance of TAS Role (see August 2013 NTA Report to Acting Commissioner)
- Managing conflict/adversarial relations between TAS and IRS – are they avoidable?