

Strengthen Taxpayer Rights

#1 **CODIFY THE TAXPAYER BILL OF RIGHTS, A TAXPAYER RIGHTS TRAINING REQUIREMENT, AND THE IRS MISSION STATEMENT AS SECTION 1 OF THE INTERNAL REVENUE CODE**

Present Law

IRC § 7803(a)(3) requires the Commissioner to “ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title [the Internal Revenue Code], including –

- (A) *the right to be informed*
- (B) *the right to quality service*
- (C) *the right to pay no more than the correct amount of tax*
- (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 retain representation*
- (J) *the right to a fair and just tax system.”*

The IRS Restructuring and Reform Act of 1998 directed the IRS to revise its mission statement “to place a greater emphasis on serving the public and meeting taxpayers’ needs.”³ The IRS subsequently adopted the following mission statement: “Provide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and *by applying the tax law* with integrity and fairness to all” (emphasis added). In 2009, with no public discussion, the IRS quietly made a profound change to its mission statement, which now reads: “Provide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and *enforce the tax law* with integrity and fairness to all” (emphasis added).

Reasons for Change

Taxpayer rights serve as the foundation for effective tax administration. The U.S. tax system is frequently characterized as a system of “voluntary compliance.” While taxpayers ultimately may face penalties for noncompliance, we rely in the first instance on the willingness of taxpayers to file returns on which they self-report their income (much of which is not reported to the IRS and is therefore difficult for the IRS to discover in the absence of self-reporting) and to pay the required tax.

More than 150 million individuals and more than ten million business entities file income tax returns and pay our nation’s bills every year, and they are entitled to be treated with respect. Making clear that taxpayers possess rights is not only the right thing to do, but TAS research suggests that when taxpayers have confidence

3 Pub. L. No. 105-206, Title I, § 1002, 112 Stat. 685, 690 (1998).

the tax system is fair, they are more likely to comply voluntarily, which may translate into enhanced revenue collection as well.⁴

The National Taxpayer Advocate recommends that three foundational provisions that would promote respect for taxpayer rights and thereby strengthen tax administration be codified as Section 1 of the IRC.

First: The ten rights that make up the *Taxpayer Bill of Rights* (TBOR) are currently codified in IRC § 7803(a)(3). We believe that relocating these provisions to the front of the tax code would make a strong and important statement about the value Congress places on taxpayer rights.

Second: Effective employee training and evaluation is required to ensure that conceptual respect for taxpayer rights is translated into practice. Currently, IRS training materials incorporate taxpayer rights information inconsistently and insufficiently.⁵ A statutory training and evaluation requirement would ensure that agency management places appropriate emphasis on promoting employee awareness of, and compliance with, taxpayer rights, and that employees have the knowledge and incentives to consider the impact of their actions on the taxpayers with whom they are working.

Third: The IRS mission statement sends a clear message about the IRS's priorities and articulates the guiding principles around which the IRS develops its strategic plans.

As noted above, the 2009 change in the IRS's mission statement from "applying the tax law" to "enforc[ing] the tax law," while subtle, has significant consequences. If a tax agency views its primary mission as "enforcing" the tax law, it is likely to design its procedures and focus its resources on taking action against the relatively small number of taxpayers it views as noncompliant. By so doing, it may neglect to provide sufficient service and support to maintain and strengthen voluntary compliance among the overwhelming majority of taxpayers who are fully or substantially compliant, and thereby risk lower levels of compliance on their part. The phrase "applying the tax law" is broad enough to encompass enforcement while also encompassing non-coercive compliance strategies.

To make clear the value Congress places on taxpayer rights, the National Taxpayer Advocate recommends that Congress codify the TBOR, a taxpayer rights training and evaluation requirement, and the IRS mission statement as § 1 of the IRC.

4 See National Taxpayer Advocate 2012 Annual Report to Congress vol. 2 1-70 (Research Study: *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results*); National Taxpayer Advocate 2013 Annual Report to Congress vol. 2 34-56 (Research Study: *Small Business Compliance: Further Analysis of Influential Factors*).

5 The IRS currently requires all employees to take annual trainings, known as Mandatory Briefings, on topics such as ethics, unauthorized access of taxpayer accounts, and anti-discrimination laws. Although the Taxpayer Advocate Service has prepared materials to be used in a Mandatory Briefing on the TBOR that likely would take less than 30 minutes per employee to complete, the IRS to date has declined to require all employees who interact with taxpayers to take a briefing on taxpayer rights.

Recommendation

Amend § 1 of the IRC to read as follows (and renumber existing Sections 1, 2, and 3 accordingly):

SECTION 1. TAXPAYER BILL OF RIGHTS AND INTERNAL REVENUE SERVICE MISSION STATEMENT.

(a) Taxpayer Rights.

- (1) In discharging their duties, every officer and employee of the Internal Revenue Service shall 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 to pay no more than the correct amount of tax,
 - (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 retain representation, and
 - (j) the right to a fair and just tax system.⁶
- (2) The National Taxpayer Advocate shall develop annual training regarding taxpayer rights, including the role of the Office of the Taxpayer Advocate, and the Commissioner shall establish procedures to ensure that all officers and employees of the Internal Revenue Service receive such annual training.⁷
- (3) The Commissioner shall establish procedures to ensure that annual performance evaluations of all officers and employees of the Internal Revenue Service address compliance with taxpayer rights.

- (b) **Mission of The Internal Revenue Service.** The Internal Revenue Service shall aim to provide taxpayers with top-quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all and with due regard for taxpayer rights as described in subsection (a)(1) and other provisions of this title.

⁶ The provisions of the TBOR were codified at IRC § 7803(a)(3). See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Div. Q, § 401(a), 129 Stat. 2242, 3117 (2015). During the drafting of the TBOR language, we understand staff of the Joint Committee on Taxation (JCT) raised concerns that if the TBOR were codified without limitation, some taxpayers might assert purported violations and seek remedies in administrative and litigated disputes, potentially requiring the IRS and the courts to adjudicate vague claims with no clear standard for resolution. After considering the JCT's concerns, the tax-writing committees ultimately settled on the language enacted as IRC § 7803(a)(3). To avoid reopening this issue, we are proposing to relocate the existing language in IRC § 7803(c)(3) virtually without change. We are recommending a minor refinement to the lead-in language that we think makes it read more clearly and does not substantially change the meaning. However, if the JCT believes our refinement does substantially change the meaning, the text of IRC § 7803(a)(3) could be relocated with no change in language at all.

⁷ For legislative language generally consistent with this aspect of the recommendation, see Protecting Taxpayers Act, S. 3278, 115th Cong. § 102(2) (2018).

#2 REQUIRE THE IRS TO PROVIDE TAXPAYERS WITH A “RECEIPT” SHOWING HOW THEIR TAX DOLLARS ARE BEING SPENT

Present Law

IRC § 7523 requires the IRS to provide taxpayers with very basic information regarding federal taxes and federal spending. Specifically, the IRS is required to include pie-shaped graphs in its instructions for Forms 1040, 1040A, and 1040EZ showing the relative sizes of major budget outlay categories and major income categories. In the 2017 Form 1040 instructions booklet, the IRS published two graphs on page 103 with data from fiscal year (FY) 2016.

Reasons for Change

IRC § 7523 was enacted for tax years beginning after 1990. The purpose of the statute—namely, to help taxpayers understand the connection between the taxes they pay and the benefits they receive—is important, and it is likely that some taxpayers who perceive that connection will be more compliant with their tax obligations. However, the National Taxpayer Advocate believes the information required by IRC § 7523 is too cursory to achieve its objective. It would be more helpful to provide each taxpayer with personalized information regarding the taxpayer’s own contributions, such as the taxpayer’s marginal tax rate, effective tax rate, and tax benefits claimed.

In addition, the value of even this cursory requirement has diminished over time. In 1990, almost all taxpayers filed their tax returns on paper, so the instructions booklet was widely available and widely used. Today, nearly 90 percent of individual income tax returns are filed electronically,⁸ and the instructions booklet is much less visible. For those reasons, far fewer taxpayers see the Form 1040 instructions booklet today.

If the statute is modified, e-filing has the potential to enhance the value of the requirement. Specifically, tax software is capable of computing and displaying personalized tax information, including the taxpayer’s marginal tax rate, effective tax rate, and tax benefits claimed—as well as show how much of each taxpayer’s tax payments go toward major categories of federal spending. If required by Congress and programmed by software companies, this information can be presented in far greater detail than was possible when the statute was enacted in 1990.

To further promote public engagement, once taxpayers are given information regarding their tax payments and their contribution to federal spending, taxpayers could be given an opportunity to voice their opinions about how their tax dollars should be spent in the future. This could be achieved by inviting taxpayers to “vote” on their tax returns regarding how much and on what programs the government should spend its money and by requiring the IRS to report the results of that “voting.” The “voting,” of course, would be non-binding. But this exercise in public engagement could help Americans gain a better understanding of the connection between the federal taxes they pay and the federal benefits they receive. And, as noted, when taxpayers have a clear understanding of the benefits they receive in exchange for the taxes they pay, tax morale and tax compliance are likely to increase.

⁸ See <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-29-2017> (showing the e-file rate was 87 percent in 2017).

Recommendations

Amend IRC § 7523 to require the IRS to provide each taxpayer with a “taxpayer receipt” that shows, on a single page, how federal dollars are spent and the taxpayer’s own contributions in the form of taxes paid and tax benefits claimed. The IRS should develop these receipts in consultation with TAS. For taxpayers who use tax software to self-prepare their returns, this requirement may be satisfied if the IRS, as part of its Authorized IRS e-file Providers rules,⁹ requires e-file providers to include a page displaying the one-page breakdown at the end of the return preparation process. For taxpayers who use paid preparers, the requirement may be satisfied by requiring the preparer to include the one-page breakdown when furnishing the taxpayer with a completed copy of his or her tax return, as required by IRC § 6107(a).

Consider amending IRC § 7523 (i) to require the taxpayer receipt to contain an online link or a paper “ballot” where the taxpayer can “vote” on what he or she believes federal funds should be spent on and in what amounts and (ii) to require the IRS to publish the aggregate results of taxpayer “voting” no later than 30 days after the end of the calendar year.

⁹ See Rev. Proc. 2007-40, 2007-1 C.B. 1488, and IRS Pub. 3112, *IRS e-file Application and Participation* (Rev. 4-2017).