

Area of
Focus #10**TAS Continues to Work with IRS to Implement the Taxpayer Bill of Rights into IRS Operations****TAXPAYER RIGHTS IMPACTED¹**

- *The right to be informed*
- *The right to a fair and just tax system*

Both the Internal Revenue Code (IRC) and IRS administrative procedures provide taxpayers with many rights when dealing with the IRS. However, taxpayers may not exercise these rights, and IRS employees may not honor them – in both cases because they are unaware of them.² The National Taxpayer Advocate has repeatedly recommended that Congress enact a comprehensive Taxpayer Bill of Rights (TBOR) to capture and organize all the rights in the IRC into a single place.³ Similarly, the National Taxpayer Advocate recommended the IRS adopt a TBOR to serve as an organizing principle for tax administrators, an educational framework for IRS employees, and a tool to empower taxpayers. To its credit, in 2014, the IRS adopted the TBOR that pulls together in one basic statement the principles that underlay the substantive rights scattered throughout the IRC and provided by administrative procedures.

In 2013, when the National Taxpayer Advocate urged the IRS to adopt the TBOR, she wrote a report to the Acting Commissioner, outlining recommendations to increase awareness of taxpayer rights for IRS employees and taxpayers.⁴ TAS has acted on a number of the key recommendations in that report to make the TBOR “real.” One of these steps was to audit the Internal Revenue Manual (IRM) to find appropriate places to insert taxpayer rights information. The IRM is the “primary, official source of IRS ‘instructions to staff’ that relate to the administration and operation of the Service.”⁵ As such, it is a major vehicle for educating IRS employees about:

- The importance of taxpayer rights overall;
- How they apply with respect to specific IRS procedures and actions; and
- When and how to inform taxpayers about their rights.

When these instructions are unclear or incomplete, or do not explain *why* an action is important from a taxpayer rights perspective, employees may misinterpret them, take shortcuts, skip steps, and thus act in ways that undermine taxpayer rights or fail to act in ways that promote taxpayer rights.

1 See IRS, Taxpayer Bill of Rights, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights>.

2 For more information regarding awareness of taxpayer rights, see National Taxpayer Advocate, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration* (Nov. 4, 2013), available at <http://www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/Toward-a-More-Perfect-Tax-System-A-Taxpayer-Bill-of-Rights-as-a-Framework-for-Effective-Tax-Administration.pdf>.

3 See, e.g., National Taxpayer Advocate 2014 Annual Report to Congress 275-310 (Legislative Recommendation: *Codify the Taxpayer Bill of Rights and Enact Legislation That Provides Specific Taxpayer Protections*).

4 See National Taxpayer Advocate, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration* (Nov. 4, 2013), available at <http://www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/Toward-a-More-Perfect-Tax-System-A-Taxpayer-Bill-of-Rights-as-a-Framework-for-Effective-Tax-Administration.pdf>. The National Taxpayer Advocate also issued a report to the Acting Commissioner in August 2013 on ways to increase awareness of taxpayer rights and TAS. *National Taxpayer Advocate’s Report in Response to the Acting Commissioner’s 30 Day Report: Analysis and Recommendations to Raise Taxpayer and Employee Awareness of the Taxpayer Advocate Service and Taxpayer Rights* (Aug. 19, 2013), available at <http://www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/30-Day-Report.pdf>.

5 IRM 1.11.2.2, *IRM Standards* (May 11, 2012).

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TAS has made significant progress on its audit. In last year's Objectives Report to Congress, the National Taxpayer Advocate reported that the TBOR IRM review team had identified an initial group of about 570 high-impact subsections in IRM 4, *Examining Process*; IRM 5, *Collecting Process*; and IRM 21, *Customer Account Services*.⁶ At the time of last year's report, the team had reviewed about 425 of the approximately 570 high-impact subsections, and developed over 140 recommendations, of which TAS sent 36 to the IRS. TAS has continued its review of the IRM, including sections that come to TAS as part of the normal clearance process, as well as high-impact sections reviewed outside the clearance process.⁷ As of March 2015, TAS has sent 87 IRM recommendations related to TBOR, of which the IRS has accepted 50.⁸

Some of TAS's TBOR recommendations would add information to the IRM about the specific rights that apply in a situation. For example, the original text of Accounts Management IRM 21.3.4.12.5.8, *Levy Release: General Information for Field Assistance*, explains:

Field Assistance does not issue levies. They are normally issued by collection employees after the taxpayer has been given an opportunity to resolve their tax liability but failed to do so. Taxpayers will generally come into the TAC [Taxpayer Assistance Center] once they learn that a Notice of Levy has been issued and are requesting a release.

TAS recommended the IRS add the following sentence to the end of this paragraph, which it has agreed to consider in the next update: "TAC employees should be aware of Collection Appeal rights and be able to provide taxpayers with information regarding these rights, as outlined in Publication 1, *Your Rights as a Taxpayer*." This sentence not only reminds employees about a taxpayer's *right to appeal an IRS decision in an independent forum*, it also reinforces the importance of being able to explain the right to taxpayers who are seeking a levy release.

TAS also recommended an addition to the second paragraph of this IRM section, which originally explained a levy release "is not required for a levy that was issued prior to reaching a resolution with the taxpayer unless it meets one of the criteria for required release located in IRM 5.19.4.4.10, *Levy Release: General Information*." TAS recommended the following note:

Note: Taxpayers have the right to expect a fair and just tax system which considers facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers also have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial hardship or if an issue has not been resolved through normal IRS procedures in a timely manner.

This addition would reinforce the fundamental principle of a fair and just tax system and explains in plain language what this right means.

⁶ See National Taxpayer Advocate FY 2015 Objectives Report to Congress 12-21.

⁷ IRMs require TAS review and clearance when the rights or duties of taxpayers are impacted or taxpayers are affected in some way. For a discussion of the clearance process, see IRM 1.11.9.1.1, *IMD Clearance Process* (Dec. 4, 2014).

⁸ The 87 IRM recommendations include the 36 sent over as of last year's report.

In addition to providing instructions to employees regarding specific rights that apply, some IRM recommendations involved increasing awareness of the TBOR generally. For IRM 22.24.1.1.1, which provides the IRS mission statement in IRM Part 22, *Taxpayer Education Assistance*, the IRS accepted TAS's recommendation to add the following note:

The IRS formally adopted a Taxpayer Bill of Rights in June 2014, which provides the nation's taxpayers with a better understanding of their rights and helps reinforce the fairness of the tax system. IRS employees must be informed about taxpayer rights and be conscientious in the performance of their duties to honor, respect and effectively communicate those rights which may aid in reducing taxpayer burden. See Publication 1, *Your Rights As A Taxpayer*, for more information.

TAS is updating its own IRM to include TBOR information in IRM 13.1.1, *Taxpayer Advocate Legislative History, Mission, and Guiding Principles*. In addition, TAS has begun the process of drafting a policy statement to be included in IRM Part 1.2, *Servicewide Policies and Authorities*, which would reaffirm the IRS's commitment to the TBOR. TAS communicated its plan regarding the policy statement to the Office of Servicewide Policy, Directives, and Electronic Research (SPDER), which in turn expressed support for adding a TBOR Policy Statement to the IRM.

FOCUS FOR FISCAL YEAR 2016

- Continue reviewing IRM sections and making recommendations for adding taxpayer rights information;
- Provide training to all TAS employees reviewing IRMs on how to incorporate the TBOR into the IRM, and through SPDER, make that training available to all IRS employees who are authors or reviewers of IRMs;
- Update IRM 13.1.1 to include TBOR information; and
- Draft a TBOR Policy Statement and submit it to the IRS to be included in IRM Part 1.2.