

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).