

TOWARD A MORE PERFECT TAX SYSTEM: A TAXPAYER BILL OF RIGHTS AS A FRAMEWORK FOR EFFECTIVE TAX ADMINISTRATION

Recommendations to Raise Taxpayer and Employee Awareness of Taxpayer Rights

“A bill of rights is what the people are entitled to against every government on earth, general or particular; and what no just government should refuse, or rest on inferences.”

Thomas Jefferson
Letter to James Madison, 1787

November 4, 2013

“At their core, taxpayer rights are human rights. They are about our inherent humanity. Particularly when an organization is large, as is the IRS, and has power, as does the IRS, these rights serve as a bulwark against the organization's tendency to arrange things in ways that are convenient for itself, but actually dehumanize us. Taxpayer rights, then, help ensure that taxpayers are treated in a humane manner”

Nina E. Olson, Lawrence Neal Woodworth Memorial Lecture, May 9, 2013

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TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	TAXPAYER BILL OF RIGHTS SERVES AS AN ESSENTIAL FRAMEWORK FOR EFFECTIVE TAX ADMINISTRATION.....	5
A.	OECD and Other Countries Provide Models for a Taxpayer Bill of Rights	6
B.	It is Essential that the IRS Adopt a Taxpayer Bill of Rights	8
Recommendation 1.1:.....		12
C.	Recognition of Taxpayer Rights Requires Adequate Funding for the IRS.....	12
III.	TAXPAYER AWARENESS OF TAXPAYER BILL OF RIGHTS.....	12
A.	Taxpayer rights presence on the IRS website is inadequate	15
Action Item 1.1:.....		17
Action Item 1.2		17
Action Item 1.3		17
Action Item 1.4		17
Action Item 1.5		17
Recommendation 2.1		17
Recommendation 2.2		17
Recommendation 2.3.....		17
Recommendation 2.4.....		17
B.	Publication 1, Your Rights as a Taxpayer	18
Action Item 2.1		22
Action Item 2.2		22
Action Item 2.3		22
Action Item 2.4		22
Action Item 2.5		22
Action Item 2.6		22
Action Item 2.7		22

Action Item 2.8:	22
Recommendation 3.1:	22
Recommendation 3.2:	23
Recommendation 3.3:	23
Recommendation 3.4:	23
IV. EMPLOYEE AWARENESS OF TAXPAYER BILL OF RIGHTS	23
A. Employee Education and Training Fail to Link Taxpayer Rights to IRS Actions 23	
Action Item 3.1:	26
Recommendation 4.1:	27
B. Taxpayer Rights Content in the IRM	27
Action Item 4.1:	29
Action Item 4.2:	29
Recommendation 5.1	29
C. Taxpayer Rights Awareness through Performance Measurements	29
Action Item 5.2	34
Recommendation 6.4	35
D. Reinforcing Employees' Awareness of Taxpayer Rights	35
Action Item 6.1:	35
Recommendation 7.1	35
Recommendation 7.2	36
V. OTHER MECHANISMS FOR PROVIDING TAXPAYER Assistance in Asserting their Rights	36
A. TAS's Systemic Advocacy Management System	36
Action Item 7.1	36
Action Item 7.2	36
Recommendation 8.1	37
Recommendation 8.2	37
Recommendation 8.3	37
B. Low Income Taxpayer Clinic Program	37
Action Item 8.1	41
Recommendation 9.1	42
Recommendation 9.2	42
C. Other Problem Identification and Problem Solving Mechanisms	42
VI. Conclusion	44

VII.	APPENDICES	45
A.	Appendix A, Publication 1, <i>Your Rights as a Taxpayer</i>	45
B.	Appendix B, Taxpayer Bill of Rights Insert, Poster, Brochure, and Flyer	47
C.	Appendix C, Taxpayer Rights by Code Section	52
D.	Appendix C, IRS.gov Homepage Mockup Displaying Taxpayer Rights	58
E.	Appendix D, Roadmap to a Tax Controversy Posters.....	59
F.	Appendix E, List of TAS Action Items.....	62
G.	Appendix F, List of Recommendations to Commissioner	64

I. INTRODUCTION

The U.S. tax system is built on voluntary compliance. The IRS estimates that it collects 85.5 percent of all tax owed.¹ Of that amount, 83.1 percent is paid timely and voluntarily. Only two percent is collected late or through enforcement.²

For the government, voluntary compliance is much cheaper than enforced compliance, because the government does not have to spend money to collect amounts that are voluntarily paid. Thus, the IRS's overriding goal is to maximize voluntary compliance.³

I submit that taxpayer rights are central to voluntary compliance. If taxpayers believe they are treated, or can be treated, in an arbitrary and capricious manner, they will mistrust the system and be less likely to comply of their own volition. By contrast, taxpayers will be more likely to comply if they have confidence in the fairness and integrity of the tax system.

The good news on this front is that the Internal Revenue Code provides dozens of taxpayer rights. Real rights. Substantive rights. Rights that in most cases provide taxpayers with opportunities to challenge arbitrary and capricious government actions. The bad news is that most taxpayers have no idea what their rights are and therefore often cannot take advantage of them. That is because taxpayer rights are scattered throughout the code and are not presented in a coherent way. Not surprisingly, in response to a taxpayer survey conducted for our office in 2012, less than half of all U.S. taxpayers said they believed they have rights before the IRS, and only 11 percent said they knew what those rights are.⁴

We can and must do a better job of making taxpayers aware of their rights and enabling them to assert these rights. Since 2007, I have repeatedly recommended adoption of a Taxpayer Bill of Rights that takes the multiple existing rights embedded in the code and groups them into ten broad categories, modeled on the U.S. Constitution's Bill of Rights.⁵ Why? Because I believe a thematic, principle-based list of core taxpayer rights would provide a foundational framework for taxpayers and IRS employees alike that would promote effective tax administration.

¹ IRS News Release, IR-2012-4, *IRS Releases New Tax Gap Estimates; Compliance Rates Remain Statistically Unchanged From Previous Study* (Jan. 6, 2012).

² *Id.* Enforcement and Late Payments percentage is computed by dividing enforcement and late payments of \$65 billion by total tax liabilities of \$2,660 billion.

³ See IRS Strategic Plan 2009-2013 ("Goal 1: Improve service to make voluntary compliance easier").

⁴ Forrester Research Inc., *The TAS Omnibus Analysis*, from North American Technographics Omnibus Mail Survey, Q2/Q3 2012 20 (Sept. 2012).

⁵ Congress has passed several pieces of legislation with "Taxpayer Bill of Rights" in the title. See Technical and Miscellaneous Revenue Act, Pub. L. No. 100-647, § 6226, 102 Stat. 3342, 3730 (1988) (containing the "Omnibus Taxpayer Bill of Rights," also known as TBOR 1); Taxpayer Bill of Rights 2, Pub. L. No. 104-168, 110 Stat. 1452 (1996) (also known as TBOR 2); Internal Revenue Service Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (Title III is known as "Taxpayer Bill of Rights III" or TBOR 3). These laws create specific rights in certain instances, but they do not create a thematic, principled-based list of overarching taxpayer rights.

Simply put, labels and presentation matter. Almost all Americans know we have a Bill of Rights, and many can name specific ones. The First Amendment right to free speech, for example, is widely known. When one digs deeper, it becomes clear that the right is not absolute (e.g., the First Amendment does not protect an individual's right to falsely scream "Fire!" in a crowded theater), and there are dozens of Supreme Court decisions that delineate the scope of the right. But the simplicity and clarity of a thematic Bill of Rights help Americans understand their rights in general terms, and this knowledge empowers them to assert their rights and learn the nuances when the need arises.

A thematic Taxpayer Bill of Rights would serve the same purpose. As the National Taxpayer Advocate, I find it wholly unacceptable and deeply concerning that less than half of our taxpayers believe they have rights and only about one out of nine believe they know what their rights are.

At the same time, I believe that the tax system will work best if we provide transparency, not only about taxpayer rights but also about taxpayer responsibilities. I view the relationship between the government and its taxpayers as a social contract of sorts – the U.S. government asks taxpayers to cooperate with the tax collector and the tax collector will treat taxpayers with courtesy and respect. In recognition of this two-way relationship, the Taxpayer Bill of Rights should also contain a section outlining taxpayer responsibilities.⁶ Overall, the document would lay out in very clear terms what taxpayers must do to comply with the tax laws and what rights taxpayers possess in that process. The document would serve to heighten awareness of these rights and responsibilities among taxpayers and IRS employees alike.

The rights and responsibilities we recommend are as follows:

Ten Taxpayer Rights

1. The Right to Be Informed
2. The Right to Quality Service
3. The Right to Pay No More than the Correct Amount of Tax
4. The Right to Challenge the IRS's Position and Be Heard
5. The Right to Appeal an IRS Decision in an Independent Forum

⁶ While I believe a statement of taxpayer responsibilities would promote effective tax administration by providing taxpayers with greater clarity about what is expected of them, the IRS's obligation to respect taxpayer rights should not be contingent on whether a taxpayer has fulfilled these responsibilities. For example, a taxpayer who did not keep all records or did not pay all tax timely does not forfeit his right to retain a representative to assist him in dealing with the IRS.

6. The Right to Finality
7. The Right to Privacy
8. The Right to Confidentiality
9. The Right to Retain Representation
10. The Right to a Fair and Just Tax System, Including Access to the Taxpayer Advocate Service

Five Taxpayer Responsibilities

1. The Responsibility to Be Honest
2. The Responsibility to Provide Accurate Information
3. The Responsibility to Keep Records
4. The Responsibility to Pay Taxes on Time
5. The Responsibility to Be Courteous

This report provides additional detail with respect to each right and responsibility.

This report is an outgrowth of allegations that the IRS used inappropriate criteria to screen applications for tax-exempt status.⁷ In response, the Principal Deputy Commissioner issued a “30-day report” providing an initial assessment of the allegations and describing actions the IRS planned to undertake to address underlying causes.⁸ Among other things, the Principal Deputy Commissioner asked the National Taxpayer Advocate to provide him with recommendations to:

- 1) Improve taxpayer and employee awareness of the Taxpayer Advocate Service and the role it plays assisting taxpayers and advocating for systemic improvements; and
- 2) Raise awareness of taxpayer rights, including updating IRS Publication 1, *Your Rights as a Taxpayer*.

⁷ See Treasury Inspector General for Tax Administration, Ref. No. 2013-10-053, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 14, 2013).

⁸ See Principal Deputy Commissioner, *Charting a Path Forward at the IRS: Initial Assessment and Plan of Action* (June 24, 2013).

In response to the first charge, the National Taxpayer Advocate submitted a report to the Principal Deputy Commissioner on August 23, 2013. This report is a response to the second charge.

In my view, the value of a Taxpayer Bill of Rights can scarcely be overstated. It would serve as an organizing principle for tax administrators in establishing agency goals and performance measures, provide foundational principles to guide IRS employees in their dealings with taxpayers, and provide information to taxpayers to assist them in their dealings with the IRS.

In my preface to the National Taxpayer Advocate's Fiscal Year 2014 Objectives Report to Congress, I analyzed the IRS's processing of applications for tax-exempt status and showed that the IRS had violated eight of the ten rights I have set out. Had there been a published Taxpayer Bill of Rights, organizations applying for tax-exempt status, IRS employees processing their applications, IRS executives overseeing the program, and Congressional offices receiving complaints likely would have flagged the inconsistencies between the applicants' rights and the IRS's actions more quickly. There is no guarantee that would have happened, of course, but the existence and broad awareness of a Taxpayer Bill of Rights would have substantially increased the odds that the problems would have surfaced and been addressed sooner.

In my reports to Congress, I have recommended that Congress codify a thematic, principle-based Taxpayer Bill of Rights.⁹ This proposal has attracted considerable bipartisan support. This summer, the House of Representatives by voice vote passed an earlier version of the proposal, which is now pending in the Senate.¹⁰

I have encountered very few concerns about the proposal. That is because it does not aim to create new rights or remedies, only to group existing rights into categories that are easier for taxpayers and IRS employees to understand and remember. Indeed, precisely because no rights are being created, there is nothing that bars the IRS from publishing a Taxpayer Bill of Rights on its own. Internally, I have had several discussions with senior IRS officials over the last few months about publishing a Taxpayer Bill of Rights, and I am hopeful the IRS will decide to do so in the near future if Congress doesn't act first.

In the next section of this report, I describe more fully the rationale for a Taxpayer Bill of Rights and the approaches other countries have taken, and I explain each right and responsibility in more detail. Thereafter, I make recommendations to increase taxpayer and employee awareness of taxpayer rights. Finally, I describe mechanisms for

⁹ For a detailed discussion of my legislative recommendation for a taxpayer bill of rights, see National Taxpayer Advocate 2011 Annual Report to Congress 493-518 (Legislative Recommendation: *Enact the Recommendations of the National Taxpayer Advocate to Protect Taxpayer Rights*); National Taxpayer Advocate 2007 Annual Report to Congress 478-89 (*Legislative Recommendation: Taxpayer Bill of Rights and De Minimis "Apology" Payments*). See also National Taxpayer Advocate Blog, Why We Need a Taxpayer Bill of Rights (Feb. 15, 2012), at <http://www.taxpayeradvocate.irs.gov/Home/Blog>.

¹⁰ Taxpayer Bill of Rights Act of 2013, H.R. 2768, 113th Cong. (as passed by House, July 31, 2013).

taxpayer recourse, including the Taxpayer Advocate Service and Low Income Taxpayer Clinics.

II. TAXPAYER BILL OF RIGHTS SERVES AS AN ESSENTIAL FRAMEWORK FOR EFFECTIVE TAX ADMINISTRATION

“A bill of rights is what the people are entitled to against every government on earth, general or particular; and what no just government should refuse, or rest on inferences.” - Thomas Jefferson¹¹

The federal Bill of Rights provides citizens with indispensable freedoms and guarantees rights that were not explicitly granted in the U.S. Constitution, such as the right to free speech and the right to be free from unreasonable searches and seizures.¹² These rights are fundamental to the functioning of our society. Citizens follow the laws because they trust the government to uphold their rights and treat them fairly. Similarly, the federal tax system is based on an unwritten social contract between the government and its taxpayers: taxpayers agree to report and pay the taxes they owe and the government agrees to provide the service and oversight necessary to ensure that taxpayers can and will do so.¹³ Taxpayers are more likely to uphold their side of this agreement and voluntarily pay taxes when they trust the government and the IRS.¹⁴ In order for taxpayers to trust the IRS, they must understand that they have fundamental rights that apply throughout their dealings with the IRS, and they must believe that the IRS will respect these rights. For this reason, it is vital that the IRS adopt a TBOR.

The Internal Revenue Code includes specific provisions that are crafted to ensure a fair and just tax system and protect all taxpayers from potential IRS abuse.¹⁵ However, the Code contains no organizing principles or formal acknowledgement of the fundamental taxpayer rights from which these statutory rights derive.¹⁶ The National Taxpayer Advocate has recommended numerous times that a statement of taxpayer rights, a

¹¹ Thomas Jefferson to James Madison, 1787. ME 6:388, Papers 12:440.

¹² See U.S. Const. amends. I, IV.

¹³ The 16th Amendment to the U.S. Constitution provides Congress with the authority to tax. The Internal Revenue Code, which provides the legal basis for our tax system, is codified in Title 26 of the U.S. Code.

¹⁴ See National Taxpayer Advocate, *Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results* 13.

¹⁵ Appendix C provides a list of Code sections providing taxpayer rights, organized by categories of fundamental taxpayer rights.

¹⁶ For example, the right of a taxpayer to be informed is included in a number of different IRC provisions. IRC § 6213(a) requires the IRS to provide a notice of deficiency giving the taxpayer 90 days (150 days if the notice is addressed to a person outside of the United States) to petition Tax Court and, as required by IRC 7522(a), it should provide the basis for and the amount of tax, interest, and penalties due. IRC § 6330 requires the IRS to notify taxpayers at least 30 days before a notice of intent to levy and provide the amount of unpaid tax, the IRS's proposed action, the IRC provisions relating to levy, the procedures available to the IRS, the administrative appeals available to the taxpayer, and the alternatives available to prevent the levy. IRC § 6320(a) requires the IRS to notify a taxpayer of the notice of federal tax lien within five days of when the lien is filed.

Taxpayer Bill of Rights, be formally codified.¹⁷ While codifying a TBOR would require Congressional action, the IRS can articulate these rights by adopting a TBOR.¹⁸

Congress has passed multiple pieces of legislation with the title of “Taxpayer Bill of Rights,” but none of these laws provide a foundational, general description of taxpayer rights. A TBOR is needed to enable a taxpayer to understand his or her basic rights without having to consult a multitude of Code sections that apply in specific circumstances. The U.S. Bill of Rights provides taxpayers with a clear statement of general rights so taxpayers understand they have a right to free speech, even if they do not know the court decisions that define and limit the scope of that right. A TBOR would operate the same way. For example, a taxpayer needs to know he or she has a basic right to appeal when facing a collection action such as a levy, even if the taxpayer does not know the specific information in the Code regarding Collection Due Process hearings.

A TBOR would make taxpayers aware of the general rights they already have. Thus, a TBOR does not create new rights, but provides organizing principles – a framework – for statutory rights.

A. OECD and Other Countries Provide Models for a Taxpayer Bill of Rights

In 1988, the Organisation for Economic Co-operation and Development (OECD) sent a questionnaire to its member countries, asking about their systems of taxpayer rights and obligations. OECD published the results of the survey in 1990.¹⁹ The survey found that although most countries did not have an explicit charter or bill of rights, there were certain basic rights present in all tax systems that responded:

- The right to be informed, assisted, and heard;
- The right of appeal;
- The right to pay no more than the correct amount of tax;
- The right to certainty;

¹⁷ See National Taxpayer Advocate 2011 Annual Report to Congress 493-518; National Taxpayer Advocate 2007 Annual Report to Congress 478-89.

¹⁸ There is ample precedent for the IRS to adopt a TBOR administratively before Congress enacts legislation. For example, in 1977, the IRS established a problem resolution program nationwide to help taxpayers when regular contacts with the IRS failed. In 1979, the IRS then created the Office of the Taxpayer Ombudsman to serve as the primary advocate within the IRS for taxpayers, with responsibility for managing the problem resolution program. Yet the first reference to the Taxpayer Ombudsman did not appear in the Internal Revenue Code until 1988. See Pub. L. No. 100-647, § 6235, 102 Stat. 3342, 3737 (November 10, 1988). Similarly, in March 1988, then Commissioner Gibbs announced a new initiative authorizing problem resolution officers to issue “taxpayer assistance actions” to suspend enforcement actions or expedite procedures in certain cases. These “taxpayer assistance actions” were the precursor to “taxpayer assistance orders” created by Congress in 1988 with the enactment of IRC § 7811. See Pub. L. No. 100-647, § 6230, 102 Stat. 3342, 3733 (November 10, 1988).

¹⁹ OECD, Committee of Fiscal Affairs, *Taxpayers’ rights and obligations – a survey of the legal situation in OECD countries* (Apr. 27, 1990).

- The right to privacy; and
- The right to confidentiality and secrecy.²⁰

The OECD also identified certain “behavioral norms” that governments expect of taxpayers and are essential to the proper functioning of tax administration. These taxpayer responsibilities include:

- The obligation to be honest;
- The obligation to be cooperative;
- The obligation to provide accurate information and documents on time;
- The obligation to keep records; and
- The obligation to pay taxes on time.²¹

Many countries have adopted taxpayer charters that officially articulate taxpayer rights and obligations. The charters vary, as some consist of general statements of broad principles while others offer detailed explanations of taxpayer rights for each stage of the tax process.²² The OECD explains that most taxpayer charters are a guide to the legal rights a taxpayer already has and they generally do not create additional rights that are not granted by legislation.²³

The Canada Revenue Agency (CRA) has adopted and published a TBOR as well as a Commitment to Small Business.²⁴ Canada’s TBOR consists of 15 provisions, including:

- The right to have the law applied consistently;
- The right to expect CRA to be accountable;
- The right to be treated professionally, courteously, and fairly; and
- The right to expect CRA to warn you about questionable tax schemes in a timely manner.²⁵

Recently, the Canadian Minister of National Revenue accepted the recommendation of the Taxpayers’ Ombudsman to add an additional article to the Taxpayer Bill of Rights, which would “provide assurance to Canadians that lodging a service complaint or

²⁰ OECD, Committee of Fiscal Affairs, *Taxpayers’ rights and obligations – a survey of the legal situation in OECD countries* (Apr. 27, 1990).

²¹ *Id.*

²² OECD, Centre for Tax Policy and Administration, *Taxpayers’ Rights and Obligations – Practice Note 3-4*, (Aug. 2003).

²³ OECD, Centre for Tax Policy and Administration, *Taxpayers’ Rights and Obligations – Practice Note 6* (Aug. 2003).

²⁴ The CRA Commitment to Small Business is a “a five-part statement through which the CRA pledges to support the competitiveness of the Canadian business community by ensuring that interactions with the CRA are as effective and efficient as possible.” <http://www.cra-arc.gc.ca/gncy/txpyrblrights/tbrfq-eng.html> (last visited Sept. 15, 2013).

²⁵ CRA, *Taxpayer Bill of Rights*, available at: <http://www.cra-arc.gc.ca/gncy/txpyrblrights/menu-eng.html> (last visited Sept. 15, 2013).

requesting a formal review would not lead to biased treatment by the CRA in the future.”²⁶

The Australian Taxation Office (ATO) also has created and adopted a Taxpayer Charter, which outlines not only a taxpayer’s rights and obligations, but also what the taxpayer can expect from the ATO and what a taxpayer can do if he or she is not satisfied.²⁷ The United Kingdom has a taxpayer charter that outlines what taxpayers can expect from Her Majesty’s Revenue and Customs (HMRC), including the expectation to be treated as honest and with respect.²⁸ The United Kingdom charter, which includes three taxpayer obligations, also commits HMRC to do everything it can to keep the cost of dealing with HMRC as low as possible.²⁹

Several states, including New York,³⁰ Pennsylvania,³¹ Indiana,³² Kentucky,³³ Montana,³⁴ and Nebraska³⁵ all have some version of a Taxpayer Bill of Rights. While these charters vary in scope – Montana’s is statutory, Nebraska’s provides its taxpayers with “Freedom from Red Tape” – all contain most of the fundamental components identified by the OECD and several outline taxpayer obligations in addition to rights. New York State also has a Consumer Bill of Rights Regarding Tax Preparers, which protects taxpayers that use tax return preparers from unfair treatment.³⁶

B. It is Essential that the IRS Adopt a Taxpayer Bill of Rights

²⁶ Office of the Taxpayers’ Ombudsman, Perspectives; Issue 3, August 2013, available at: <http://www.oto-boc.gc.ca/rprts/nslt3-eng.html> (last visited Sept. 24, 2013).

²⁷ See ATO, Taxpayer’s Charter: What You Need to Know (2011), available at: <http://www.ato.gov.au/About-ATO/About-us/In-detail/Taxpayers--charter/Taxpayers--charter---what-you-need-to-know/> (last visited Sept. 24, 2013).

²⁸ HMRC, Your Charter, available at: <https://www.gov.uk/government/publications/your-charter> (last visited Sept. 24, 2013).

²⁹ *Id.*

³⁰ N.Y. Tax Law § 3000. See <http://www.tax.ny.gov/tra/rights.htm> (last visited Sept. 15, 2013).

³¹ 72 Pa. Stat. Ann. § 3310-101 (1996); see Taxpayer Bill of Rights available at http://www.portal.state.pa.us/portal/server.pt/community/taxpayers'_rights_advocate/13152 (last visited Sept. 24, 2013).

³² See Indiana Department of Revenue, The Taxpayer Bill of Rights, <http://www.in.gov/dor/3660.htm> (last visited Sept. 15, 2013).

³³ Kentucky Revised Statutes Annotated 131.041-131.081, Taxpayer Bill of Rights; see also Your Rights as a Kentucky Taxpayer, available at <http://www.revenue.ky.gov/nr/rdonlyres/c343eebb-2975-4f0b-82a6-855c9d15cdd2/0/10f100713.pdf> (last visited Sept. 24, 2013).

³⁴ Montana Codes Annotated 15-1-222; see http://revenue.mt.gov/tax_appeal_process/taxpayer_bill_rights.mcpx (last visited Sept. 15, 2013).

³⁵ See <http://www.revenue.ne.gov/rights.html> (last visited Sept. 15, 2013).

³⁶ See State of New York, Department of Taxation and Revenue, Publ. 135, *Bill of Rights Regarding Tax Preparers* (Aug. 2011), available at: <http://www.tax.ny.gov/pdf/publications/income/pub135.pdf> (last visited Sept. 24, 2013).

A formal acknowledgement of taxpayer rights is vital to restoring and maintaining taxpayers' confidence in the IRS to fairly and impartially administer the tax laws. In a recent lecture, the National Taxpayer Advocate stated:

At their core, taxpayer rights are human rights. They are about our inherent humanity. Particularly when an organization is large, as is the IRS, and has power, as does the IRS, these rights serve as a bulwark against the organization's tendency to arrange things in ways that are convenient for itself, but actually dehumanize us. Taxpayer rights, then, help ensure that taxpayers are treated in a humane manner.³⁷

A TBOR that is simply stated and articulates the basic rights and obligations of every taxpayer should provide the organizing principle around which tax administration operates. Whenever the IRS proposes a new initiative, it needs to analyze the initiative to ensure that it comports with the fundamental taxpayer rights set forth in the TBOR and the Internal Revenue Code. The IRS needs a TBOR to guide not only its big-picture policy and programming decisions but the individual actions of IRS employees.

The National Taxpayer Advocate has used OECD's guidance to develop a list of taxpayer rights and responsibilities to be included in the TBOR.³⁸ Taxpayer rights apply to taxpayers in all situations, regardless of whether they have met their obligations, such as filing a tax return on time. That is, taxpayer rights are not conditioned on taxpayers' compliance. Still, including taxpayer responsibilities in the TBOR reinforces the social contract between taxpayers and the IRS. The following make up the TBOR proposed by the National Taxpayer Advocate:

Ten Taxpayer Rights

1. The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with tax laws. They are entitled to clear explanations of the law 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.

2. 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

³⁷ Nina E. Olson, *A Brave New World: The Taxpayer Experience in a Post-Sequester IRS* (the Laurence Neal Woodworth Memorial Lecture), *Tax Notes Today* 106-118 (June 3, 2013).

³⁸ The National Taxpayer Advocate has shared this TBOR with the IRS Office of Chief Counsel and the Chief of Communications and Liaison, and has adopted several of their suggestions.

understand, to receive clear and easily understandable communications from the IRS, and to have a way to file complaints about inadequate service.

3. 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 and to have the IRS apply all tax payments properly.

4. 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 IRS actions or proposed actions, to expect that the IRS will consider their objections and documentation promptly and impartially, and to receive a written response if the IRS finds them insufficient.

5. The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a prompt and impartial administrative appeal of IRS actions and have the right to receive a written response explaining the Appeals Division's decision. Taxpayers generally have the right to take their cases to court to challenge an adverse final determination.

6. 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. Taxpayers have the right to know when the IRS has finished an audit.

7. 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 a collection due process hearing where applicable.

8. 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 the IRS to investigate and take appropriate action against its employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

9. 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 be told that if they cannot afford to hire a representative they may be eligible for assistance from a Low Income Taxpayer Clinic.

10. The Right to a Fair and Just Tax System, Including Access to the Taxpayer Advocate Service

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.

Five Taxpayer Responsibilities

1. The Responsibility to Be Honest

Taxpayers have the responsibility to be truthful in preparing their tax returns and in all other dealings with the IRS.

2. The Responsibility to Provide Accurate Information

Taxpayers have the responsibility to answer all relevant questions completely and honestly, to provide all required information on a timely basis, and to explain all relevant facts and circumstances when seeking guidance from the IRS.

3. The Responsibility to Keep Records

Taxpayers have the responsibility to maintain adequate books and records to fulfill their tax obligations, preserve them during the time they may be subject to IRS inspection, and provide the IRS with access to those books and records when asked so the IRS can examine their tax liabilities to the extent required by law.

4. The Responsibility to Pay Taxes on Time

Taxpayers have the responsibility to pay the full amount of taxes they owe by the due date and to pay any legally correct additional assessments in full. If they cannot pay in full, they have the responsibility to comply with all terms of any full or partial payment plans the IRS agrees to accept.

5. The Responsibility to Be Courteous

Taxpayers have the responsibility to treat IRS personnel politely and with respect.

By establishing an official taxpayer charter, the IRS can show its current and future commitment to protecting fundamental taxpayer rights. The TBOR will also provide a valuable framework for evaluating IRS policies, programs, actions, and initiatives.

Recommendation to Commissioner:

Recommendation 1.1: Adopt the Taxpayer Bill of Rights, including ten fundamental taxpayer rights and five taxpayer responsibilities.

C. Recognition of Taxpayer Rights Requires Adequate Funding for the IRS

Throughout this report are examples of actions the IRS can take to implement the TBOR. However, taxpayer rights may be impaired if the IRS is not adequately funded. If there is agreement that taxpayers have certain basic rights, then this places on Congress and the Executive Branch the responsibility to fund the IRS so it can deliver these rights. For example, if taxpayers have the *right to quality service*, then the IRS must be funded so that it has the capability to provide quality service. A TBOR will be limited in its effectiveness without an adequate budget for the IRS to take actions to protect and fulfill taxpayer rights.

III. TAXPAYER AWARENESS OF TAXPAYER BILL OF RIGHTS

The Internal Revenue Code includes a number of statutory taxpayer rights that are specific to certain situations, but it contains no organizing principles or formal acknowledgement of the fundamental taxpayer rights from which these statutory protections derive. Thus, taxpayers may not realize they have rights or know what they are. TAS research shows that many taxpayers are not aware they have rights. The results of a recent nationwide survey of taxpayers found fewer than half of U.S. taxpayers believed they have rights before the IRS, and only 11 percent said they knew what those rights were.³⁹

³⁹ Forrester Research Inc., *The TAS Omnibus Analysis, from North American Technographics Omnibus Mail Survey, Q2/Q3 2012*, 20 (Sept. 17, 2012).

Figure 1: Taxpayers' Knowledge of Taxpayer Rights

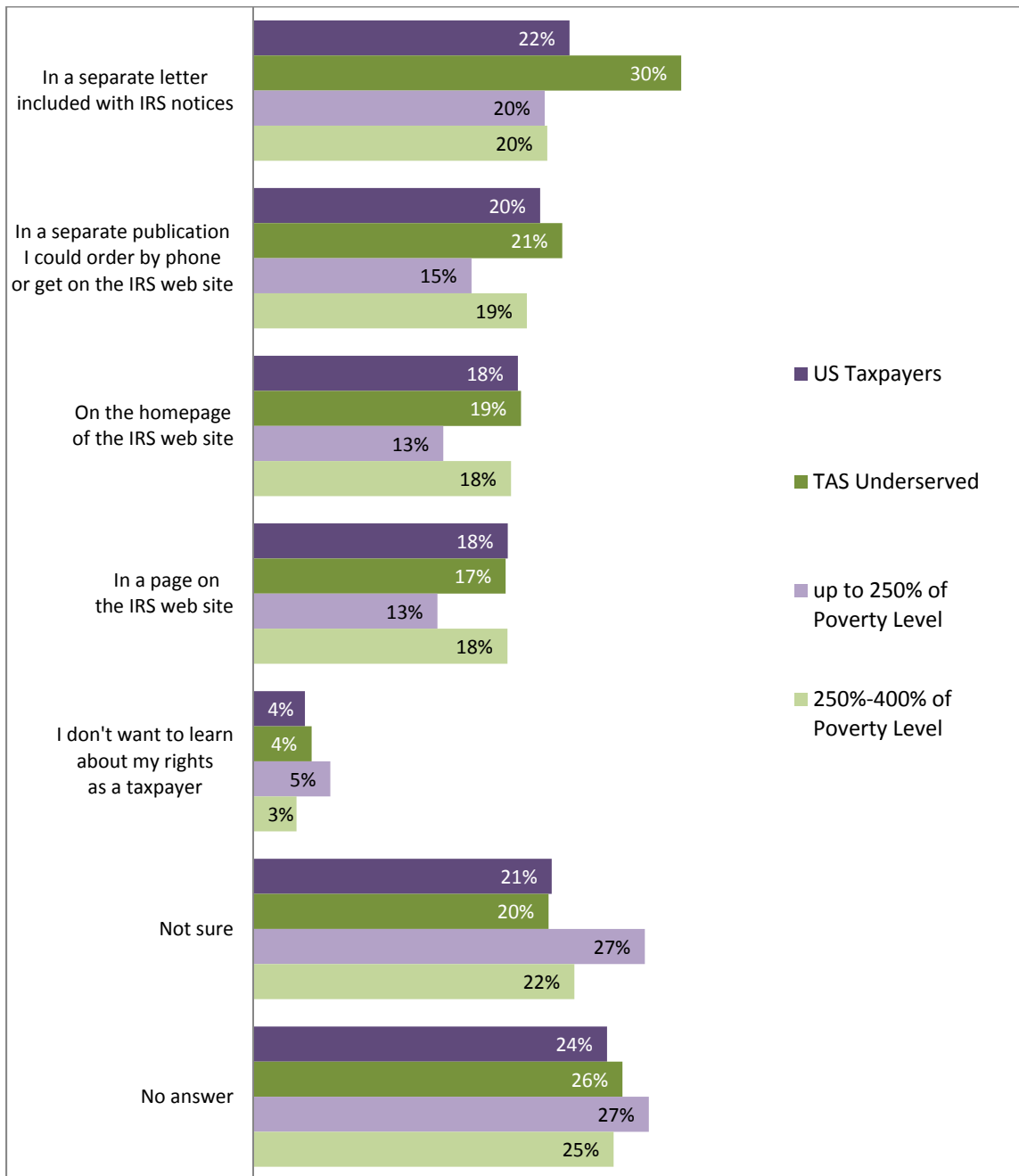
Only 46% of U.S. taxpayers believe they have rights before the IRS



Only 11% said they knew what those rights were

The IRS relies largely on distribution of Publication 1, *Your Rights as a Taxpayer*, to inform taxpayers about their rights. As discussed below, with revisions Publication 1 can be an important vehicle for taxpayer education about their rights, but the IRS should also educate and inform taxpayers through its public website and with posters and brochures in IRS offices. Taxpayers prefer a variety of sources, according to a 2012 TAS study that asked a statistically representative nationwide sample of 8,911 U.S. taxpayers how they would like to learn about their rights.

Figure 2: “How would you like to learn about your rights?”⁴⁰



⁴⁰ Forrester Research Inc., *The TAS Omnibus Analysis, from North American Technographics Omnibus Mail Survey, Q2/Q3 2012*, 21 (Sept. 17, 2012). “TAS underserved” refers to taxpayers who qualify for but do not seek TAS help with their tax problems. This survey was conducted only in English; TAS is seeking to administer it to Spanish-speaking taxpayers. See TAS 60 Day Report 13-16.

Thus, taxpayers are best served if the IRS provides multiple channels of taxpayer rights information and education.

A. Taxpayer rights presence on the IRS website is inadequate

Taxpayers Prefer Learning about Taxpayer Rights through Different Communication Channels

It is the IRS's responsibility to communicate rights to its customers, and to give them this information in the way they prefer (and need) to receive it. Like other IRS interactions with taxpayers, information about fundamental rights must be available through both electronic (PC and mobile devices) and traditional channels: posters, publications, and telephonic and face-to-face (or virtual face-to-face) contact with IRS employees.

While all these methods of public contact are still important, the IRS website at www.irs.gov has become a critical source of year-round information for taxpayers. The site received over 157 million visits from January 1, 2013 through September 30, 2013.⁴¹ Despite the popularity of IRS.gov and its role as a "go-to" site for many taxpayers, the phrase "taxpayer rights" is absent from the homepage and many of the site's other pages.

In today's environment, failing to communicate taxpayer rights online may leave a large segment of taxpayers unaware of them. A 2012 survey of 11,454 taxpayers found that TAS underserved taxpayers (*i.e.*, those most in need of TAS services)⁴² spent an estimated average of 16 hours using the Internet (for work or personal use) in a typical week.⁴³ The survey also found for many of the underserved, the Internet is a top source for personal finance information.⁴⁴

- Forty-four percent access mobile Internet at least weekly, or perform multiple advanced activities monthly or more often, such as downloading applications, using mobile banking, or shopping.⁴⁵
- 86 percent of U.S. taxpayers had broadband Internet at home, and
- 83 percent of the TAS underserved population had broadband Internet at home.⁴⁶

⁴¹ Google Analytics, Audience Overview (last visited Oct. 30, 2013).

⁴² See note 40 *supra*.

⁴³ Forrester Research Inc., *The TAS Omnibus Analysis, from North American Technographics Omnibus Mail Survey*, Q2/Q3 2012, 25 (Sept. 17, 2012). For a full discussion of the surveys commissioned by TAS on the population served by TAS, including the underserved, see 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).

⁴⁴ *Id.* at 26.

⁴⁵ *Id.* at 40.

The IRS Needs to Prominently Display Information about Taxpayer Rights on its Homepage and throughout its Website

Based on the number of taxpayers using the Internet, the IRS website provides a crucial opportunity for the IRS to communicate taxpayer rights to taxpayers – an opportunity the IRS has so far failed to grasp. Every user – any taxpayer who visits the official IRS site at any time, via any computer or mobile device – should find a banner titled “Know Your Rights as a Taxpayer” on the IRS home page, which would link to another page spelling out the full list of rights (and responsibilities), which in turn would link to further pages with details about how these rights apply in specific situations. A mockup of the modified homepage appears in Appendix D.

TAS recently conducted a preliminary high-level review focusing on the presence of taxpayer rights on IRS.gov. While TAS will work with the IRS to conduct a more thorough review, our initial scan found few references to taxpayer rights and the Taxpayer Bill of Rights within the site.

Examples of pages on IRS.gov lacking reference to taxpayer rights include “Enforced Collection Actions,” “International Taxpayer,” “Responding to a Notice,” and “Identity Protection.” TAS is committed to correcting this gap and will propose significant changes to the content of IRS.gov to increase and improve the website coverage of the taxpayer rights content and TBOR.

Toward that end, TAS has recently obtained its own “channel” on IRS.gov, which will allow for enhanced placement of taxpayer rights on various pages of IRS.gov.⁴⁷ It will also give us the ability and flexibility to add functionality and other enhancements to the messaging on the TAS site.

The National Taxpayer Advocate and TAS will work with the IRS to post the TBOR on the IRS website. TAS believes posting these rights in plain language and making them available throughout the website will greatly improve taxpayer awareness. TAS will measure the increase in taxpayer awareness of their rights by conducting surveys similar to the one we commissioned in 2012 to determine whether our outreach and education efforts have been effective.⁴⁸

TAS also will develop a complete suite of taxpayer rights products to support the awareness campaign.⁴⁹ This will include posters for taxpayer-facing offices such as Taxpayer Assistance Centers (TACs), Low Income Taxpayer Clinics (LITCs) and local TAS offices. Brochures will accompany the posters where appropriate. We will explore

⁴⁶ Forrester Research Inc., *The TAS Omnibus Analysis, from North American Technographics Omnibus Mail Survey*, Q2/Q3 2012, 12 (Sept. 17, 2012).

⁴⁷ An IRS.gov channel is an area of the site assigned to a specific department within the IRS, e.g., TAS, the Wage and Investment Division, the Small Business / Self-Employed division, etc.

⁴⁸ See Forrester Research, Inc. *The TAS Omnibus Analysis from North American Technographics Omnibus Mail Survey*, Q2/Q3, 19-20 (Sept. 17, 2012).

⁴⁹ See Appendix B, Taxpayer Bill of Rights Insert, Poster, Brochure, and Flyer.

ways to raise awareness through outreach efforts with our external stakeholders, as well as building partnerships and sharing relevant materials with other state and federal agencies and non-profit organizations.

TAS Action Items:

Action Item 1.1: Develop and maintain taxpayer rights and responsibilities web pages on IRS.gov. This would include prominently featuring taxpayer rights on the main landing page with links to a further series of pages explaining individual rights and responsibilities and illustrating how they apply in specific situations. These pages would incorporate or link to the forthcoming revised Publication 1, *Your Rights as a Taxpayer*, and expanded versions for Appeals, Examination, and Collection, discussed in the Publication 1 section below.

Action Item 1.2: Develop a series of short videos on specific taxpayer rights to include on the Taxpayer Rights TAS toolkit, with links available for IRS.gov pages.

Action Item 1.3: Conduct a more thorough audit of IRS.gov to determine the gaps in taxpayer rights communication, prioritize the critical gaps to be filled immediately, and develop a strategy for meeting additional needs.

Action Item 1.4: Develop taxpayer rights language for use by the BODs on their IRS.gov pages, including references to TAS and LITCs, as well as specific taxpayer rights and responsibilities, and links to the U.S. Tax Court website where appropriate.

Action Item 1.5: Survey taxpayers on a periodic basis to determine whether our outreach and education efforts have been successful, using the 2012 survey as a baseline.

Recommendations to Commissioner:

Recommendation 2.1: Place “Know Your Rights as a Taxpayer” in the far right banner of the homepage of IRS.gov, linking to the taxpayer rights page.

Recommendation 2.2: In collaboration with the National Taxpayer Advocate, populate the taxpayer rights page with links to a further series of pages explaining taxpayer rights and responsibilities as described in Action Item 1.1 above.

Recommendation 2.3: Place “Know Your Rights as a Taxpayer” at the top of the column labeled “Get Important Info” in the standard footer on every page of IRS.gov.

Recommendation 2.4: In collaboration with the National Taxpayer Advocate, include taxpayer rights language on BOD pages of IRS.gov, referencing TAS and LITCs, specific taxpayer rights and responsibilities, and links to the U.S. Tax Court where appropriate.

B. Publication 1, Your Rights as a Taxpayer

Publication 1 Needs to be Distributed More Widely

A taxpayer's *right to be informed* requires the IRS to inform taxpayers about the laws and procedures that apply in specific situations and also about the broader rights that apply throughout the taxpayer's interactions with the IRS.⁵⁰ In the first Taxpayer Bill of Rights legislation (TBOR I), Congress required the IRS to prepare a statement of taxpayer rights and IRS obligations and distribute it to taxpayers when contacting them regarding the determination of tax or collection of tax.⁵¹ Currently, the IRS outlines these rights for taxpayers in Publication 1, *Your Rights as a Taxpayer*.⁵² The IRS also uses Publication 1 to comply with certain other statutory requirements, such as advance notice of potential third party contacts.⁵³ In addition, the IRS provides Publication 1 to taxpayers in cases where it may not be statutorily required, but where the IRS has chosen to distribute the publication as a matter of policy. For example, examiners provide Publication 1 to taxpayers along with other publications to notify them of their appeal rights.⁵⁴ The IRS also uses Publication 1 to meet its statutory requirement to notify taxpayers of their right to request relief from joint and several liability.⁵⁵

Effectiveness of Publication 1 in Informing Taxpayers of their Rights

In many cases, Publication 1 is the first legally required notice of rights provided to taxpayers when the IRS contacts them. The current Publication 1 provides an overview of a number of rights afforded to taxpayers, including the rights to:

- Privacy;
- Know how personal information is to be used;
- Be treated fairly and courteously by IRS employees;
- Representation during proceedings;

⁵⁰ *The right to be informed* encompasses more than just education of basic taxpayer rights. Under this right, taxpayers should also be able to learn about the status and progress of their cases, any actions the IRS has taken, and how the IRS is considering a specific issue.

⁵¹ Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647, § 6227, 102 Stat. 3342, 3730-31. (Nov. 10, 1988).

⁵² The IRS distributes Publication 1 to taxpayers with the initial contact letter during an examination. See IRM 4.10.2.7.4.2 (Apr. 2, 2010).

⁵³ IRC § 7602(c) requires the IRS to provide reasonable notice to the taxpayer in advance of "contacting third parties with respect to the determination and collection of such taxpayer's tax liability." See e.g. IRM 5.1.10.2 (June 7, 2013) (providing notice of potential third party contacts in field collection cases), IRM 4.12.1.5.6.1 (Oct. 5, 2010) (providing notice of potential third party contacts in nonfiler examination cases).

⁵⁴ See IRM 4.10.1.6.3 (May 14, 1999).

⁵⁵ See 25.15.1.9 (Feb. 26, 2013). The Internal Revenue Service Restructuring and Reform Act of 1998 required the IRS to "establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions." Pub. L. No. 105-206, § 3501(a) 112 Stat. 685, 770 (July 22, 1998).

- Pay only the correct amount of tax;
- Receive assistance from TAS if the taxpayer has tried unsuccessfully to resolve the problem with the IRS, if the IRS has failed to respond to the taxpayer, or the problem is creating a hardship;
- Be allowed to appeal a tax liability or certain collection actions; and
- Have certain penalties and interest waived for certain mistakes or delays caused by an IRS employee.

The existing Pub 1 does not include any reference to taxpayer responsibilities, nor does it include a complete set of taxpayer rights.

In 2011, TAS conducted focus groups with tax professionals at the IRS Nationwide Tax Forums to learn about tax professionals' and taxpayers' awareness of their rights and to learn how effective Publication 1 is in educating taxpayers.⁵⁶ The focus groups questioned practitioners on whether taxpayers:

- Understood the purpose of Publication 1;
- Knew that Publication 1 was an official document advising them of their rights;
- Thought Publication 1 was effective;
- Received it at the appropriate time;
- Thought it contained too much or too little information; and
- Would better understand their rights and be more likely to uphold their responsibilities if Publication 1 also discussed taxpayer responsibilities.

One of the most frequent comments during these focus groups was that taxpayers did not read the publication. While some practitioners commented that they thought Publication 1 had the right amount of information, others said page 2 of the Publication was too long or confusing. More than one practitioner suggested creating a second publication or letter as a follow up to explain the process or options that might arise in the future, such as the Appeals or Collection process for a taxpayer who is beginning an examination.⁵⁷

Based on information gathered from the focus groups as well as additional research on taxpayers' awareness of their rights, TAS is updating Publication 1 to make it more effective in informing taxpayers about their rights. This revision will put Publication 1 in plain language that all taxpayers, including the underserved, can understand, and will identify not only taxpayers' fundamental rights but their responsibilities. TAS is also planning to create other products based on Publication 1, such as posters and brochures to be displayed in TACs.

⁵⁶ See 2011 IRS Nationwide Tax Forums TAS Focus Group Report: Publication 1- Taxpayer Rights (Oct. 2011).

⁵⁷ See *id.*

Changes to Publication 1 will be premised on the idea that the more an individual believes he or she is heard and treated fairly, the more he or she will believe the tax system is procedurally just. This increased perception of a fair tax system may lead to increases in future compliance.

TAS is launching an external awareness campaign that will explore partnerships with other IRS operating divisions to increase awareness of the rights outlined in the revised Publication 1. This campaign will include posters informing taxpayers of their rights for use in walk-in offices such as TACs, Local Taxpayer Advocate offices, and LITCs. In addition, TAS will develop a taxpayer rights brochure to be distributed at offices where taxpayers meet with IRS employees.

TAS has also begun creating multiple versions of Publication 1 for the different phases of a tax controversy. This will allow the primary Publication 1 to be shorter and more concise, and to serve as a “consciousness raising” tool, designed to increase the general taxpayer population’s knowledge of taxpayer rights and responsibilities. The other versions of Publication 1 can then provide more information about the actual tax controversy process and what options the taxpayer may have at specific points. TAS is planning to create three new publications:

- Publication 1-E for taxpayers in examination;
- Publication 1-A for taxpayers when they have appeal rights; and
- Publication 1-C for taxpayers in collection.

These publications will be shorter than and complement the larger publications for specific tax controversy phases, such Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, which is currently 19 pages long.⁵⁸

Similar to the primary Publication 1, the new versions will be organized around the ten foundational taxpayer rights and five taxpayer responsibilities. The new publications will reinforce the foundational Publication 1 and help taxpayers in situations where they know they have a general right, but may not be familiar with the specific rights that apply at the time. For example, if a taxpayer in collection knows he or she generally has a *right to appeal*, he or she could look at the Right to Appeal section in Publication 1-C and learn about the right to a Collection Due Process hearing or the Collection Appeals Program, as well as appeal rights for installment agreements and offers in compromise.⁵⁹

⁵⁸ See Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund* (May 2008).

⁵⁹ IRC § 6330(b) provides the right to a Collection Due Process hearing if the taxpayer timely requests a hearing in writing. IRM 5.1.9.4 (Feb. 23, 2012) provides procedures for a Collection Appeals Program (CAP) appeal. IRC § 6159 authorizes the IRS to enter into agreements with taxpayers to make tax payments in installments. IRC § 7122(a) provides the IRS with the authority to enter into an offer in compromise. IRC § 7122(e) requires the IRS to establish procedures which allow a taxpayer to appeal a rejection of an offer in compromise or installment agreement. Internal Revenue Manual (IRM) 5.8 outlines the IRS’s administrative procedures regarding offers in compromise. IRM 5.14.9.7 outlines the IRS’s procedures regarding rejected installment agreements.

TAS plans to complete the new draft versions of all four Publication 1 documents by the end of the calendar year. TAS will conduct focus groups during January or February 2014 to solicit taxpayer reactions and opinions about the new draft publications.⁶⁰ TAS will try to learn what formats of the publications are more likely to be read by taxpayers, what information taxpayers understand from reading the new publications, and how the publications can be revised to better communicate taxpayer rights. Based on the responses, TAS will revise the four Publications and initiate the clearance process. Once they are cleared, TAS anticipates the new publications will be published during the last half of calendar year 2014.

Distribution of Publication 1

As discussed above, the IRS primarily provides Publication 1 to taxpayers to comply with statutory requirements and often misses opportunities to inform taxpayers of their rights in situations where there is no statutory requirement to provide Publication 1. The Acting Commissioner's 30 Day Report noted that Publication 1 was not provided to organizations seeking tax-exempt status under IRC § 501(c)(4) because these organizations were not selected for examination.⁶¹ When TAS asked practitioners during the focus groups whether they thought Publication 1 was provided at the correct time, many of them commented that the IRS only provided it once the taxpayer already had a problem with the IRS and it should be provided before this point.⁶²

Employees rely on the IRM for guidance as to what actions to take, thus IRM changes are necessary to require employees to distribute Publication 1 more frequently. As part of the current IRM review process, TAS recommends placing references to Publication 1 in IRM provisions owned by other functions. Since January 1, 2013, TAS has recommended the IRS include Publication 1 in five different IRMs and letters.⁶³ The IRS has accepted three of these recommendations, while negotiations are ongoing for the other two IRM sections. Because many IRM sections are not updated frequently, and the IRS does not include all TAS recommendations in its IRM, there are numerous places in the IRM where employees should be instructed to provide Publication 1 to taxpayers.

⁶⁰ See Action Items below.

⁶¹ Principal Deputy Commissioner, *Charting a Path Forward at the IRS: Initial Assessment and Plan of Action 33* (June 24, 2013). The Technical and Miscellaneous Revenue Act of 1988 requires the IRS to prepare a statement of taxpayer rights and IRS obligations during an audit and distribute it to all taxpayers the IRS contacts "with respect to the determination or collection of any tax (other than by providing tax forms)." Pub. L. No. 100-647, § 6227, 102 Stat. 3342, 3730-31. (Nov. 10, 1988). An argument can be made that an exempt organization determination is covered under "the determination or collection of any tax" because if the application for exempt status is denied, then the organization may have some tax liability in the future. An inclusive reading of this provision that focuses on taxpayer rights would include exempt organization determinations.

⁶² See *2011 IRS Nationwide Tax Forums TAS Focus Group Report: Publication 1- Taxpayer Rights* (Oct. 2011).

⁶³ The five sections were IRM 5.18.1.7.11.9.1; IRM 4.32.2.7.2.1; IRM 4.32.2.7.2.2; IRM 21.3.12.4.6; IRM 21.3.12.4.4.1 (selected from IRM reviews completed from Jan. 1, 2013 through August 2013).

TAS is conducting a comprehensive review of the IRM, including its own sections, to identify instances where Publication 1, including the new versions, should be distributed to taxpayers.⁶⁴ TAS will work with the IRS to incorporate changes to IRM sections over time through the standard IRM review process. For a limited number of IRM sections covering situations with an urgent need to provide Publication 1 to the taxpayer, TAS will seek immediate changes. TAS will also review taxpayer notices to identify those that should include one of the Publications as a stuffer.

TAS Action Items:

Action Item 2.1: Draft a revised version of Publication 1 based on the results of past focus groups and surveys.

Action Item 2.2: Create a poster version of Publication 1 to be displayed in Low Income Taxpayer Clinics, Taxpayer Assistance Centers, local TAS offices, and all other taxpayer-facing offices.

Action Item 2.3: Create a bifold or trifold brochure version of Publication 1 to be placed in each office where taxpayers come for appointments, including Exam, Appeals, Collection, and local TAS offices.

Action Item 2.4: Create three new versions of Publication for exam (Publication 1-E), Appeals (Publication 1-A), and collection (Publication 1-C).

Action Item 2.5: Conduct focus groups regarding the drafts of Publication 1, Publication 1-E, Publication 1-A, and Publication 1-C.

Action Item 2.6: Conduct a comprehensive audit of IRM sections to identify instances where the IRS should provide either Publication 1 or one of the new versions of Publication 1.

Action Item 2.7: Provide the IRS with a list of any IRM sections that need immediate updates to require the IRS to distribute Publication 1 and develop a strategy for addressing less urgent updates.

Action Item 2.8: Identify taxpayer notices that should include Publication 1, Publication 1-E, Publication 1-A, or Publication 1-C as a stuffer.

Recommendations for Commissioner:

Recommendation 3.1: Require all TACs and customer-facing IRS offices to display the Publication 1 poster.

⁶⁴ This review was in response to action item 3.1 in the TAS 60 Day Report.

Recommendation 3.2: Require all IRS offices where taxpayers come in for appointments, including Exam, Appeals, Collection, and local TAS offices, to include a display of Publication 1 brochures for taxpayers to take.

Recommendation 3.3: Update all IRM sections identified by TAS to include requirements for employees to provide Publication 1, Publication 1-E, Publication 1-A, or Publication 1-C.

Recommendation 3.4: Update all notices identified by TAS to include Publication 1, Publication 1-E, Publication 1-A, or Publication 1-C as a stuffer.

IV. EMPLOYEE AWARENESS OF TAXPAYER BILL OF RIGHTS

A. Employee Education and Training Fail to Link Taxpayer Rights to IRS Actions

While the Internal Revenue Code guarantees certain specific taxpayer protections, employees do not always communicate these rights to taxpayers at appropriate times. Generally, employees learn about specific taxpayer rights in a piecemeal way, without gaining a comprehensive perspective. Thus, IRS employees lack education and training on how fundamental rights apply throughout the tax filing and tax controversy process. Additionally, employees do not learn about the importance of taxpayer protections in reassuring taxpayers of the fundamental fairness of the tax system. While some employees receive initial training about taxpayer rights, that training is not regularly reinforced during later periodic trainings, such as Continuing Professional Education (CPE). Providing employees with a larger background of taxpayer rights is necessary to fully carry out the TBOR.

Initial Training for New Employees on Taxpayer Rights

TAS is reviewing employee education and training on taxpayer rights across the IRS. In terms of training, TAS is analyzing the initial hire training provided for different employee positions and in different IRS organizations, as well as CPE. TAS's initial analysis of training for some common positions shows that training on taxpayer rights varies greatly by position and organization.

- TAS's initial review of the Core Competency Training for newly hired Revenue Agents, a 575-page participant guide, found only six paragraphs that mention discussing with taxpayers their rights and the audit process.⁶⁵

⁶⁵ Small Business/Self-Employed Division (SB/SE) Core Competency Training, Trng. 29689-102 (May 2011).

- The Exam Procedural Training Course has a module devoted to taxpayer rights, including the TBOR I, TBOR II and RRA 98 legislation.⁶⁶ The training discusses topics such as taxpayer credibility and the use of oral testimony, which are part of a taxpayer's right to be heard.
- The Exam Toll-Free Telephone Assistor Training Course covers only selected taxpayer rights topics, such as taxpayer authentication and power of attorney.⁶⁷ While the scripts used in the training touch on a taxpayer's right to appeal by discussing Tax Court deadlines, the assisters would need to stray from the script in order to make sure taxpayers understand their rights and the consequences of failure to act.
- The initial hire training for Revenue Officers⁶⁸ provides a solid background in taxpayer rights, including three hours of lessons, focusing on all aspects of taxpayer rights as they pertain to collection.
- Automated Collection System (ACS) employees have two courses on taxpayer rights as part of the ACS Basic New Hire Course.⁶⁹ One lesson details communicating with the taxpayer regarding appeal rights, and the other lesson provides training on appeal rights after an installment agreement has been denied. Unlike the RO training, there is no stand-alone training course that emphasizes overall taxpayer rights.⁷⁰

The lack of training on taxpayer rights for ACS employees compared to Revenue Officers is problematic because ACS employees take far more collection actions. In fiscal year (FY) 2013, ACS issued nearly double the number of levies, initiated nearly 11 times the number of Installment Agreements and closed over half as many more (51.8 percent) cases as currently not collectible.⁷¹

Continuing Education on Taxpayer Rights

TAS has found that even when employees receive initial training on taxpayer rights, they may not receive reminders or updates on this training. So while employees may remember that the TBOR includes fundamental taxpayer rights, such as the right to

⁶⁶ Correspondence Examination Procedural – General Program Casework Information Course 18664-102 (Rev. May 2011).

⁶⁷ Exam Toll-Free Telephone Assistor Training Course 12256-102 (Rev. June 2013).

⁶⁸ IRS, *Revenue Officer Training Unit 1*, Module I Introduction to Taxpayer Rights Overview.

⁶⁹ See IRS Response to TAS Research Request (Oct. 17, 2013) (discussing the ACS Basic-Taxpayer Appeal Rights (18755) and the ACS Basic-Independent Review (18749)).

⁷⁰ This was determined based on the IRS response to TAS's research request (Oct. 17, 2013).

⁷¹ In FY 2013, there were: 638,793 field levies versus 1,216,302 ACS levies; 63,944 field installment agreements versus 699,200 ACS installment agreements; and 228,318 currently not collectible field cases versus 346,576 currently not collectible ACS cases. Collection Activity Reports No. 5000-24 (Oct. 29, 2013), No. 5000-6 (Oct. 29, 2013), No. 5000-149 (Oct. 29, 2013). Currently not collectible numbers are hardship only.

appeal or the right to be heard, they may not remember at what times these rights arise or realize when certain actions deprive taxpayers of them. Without continued education on taxpayer rights throughout his or her career, an employee may fail to incorporate a working knowledge of taxpayer rights into daily activities and interactions with taxpayers.

Across the agency, CPE sessions consistently lack material on taxpayer rights.

- The FY 2013 Appeals CPE schedule includes ten Customer Satisfaction Courses, of which nine are from an outside vendor and focused on customer relationships in the private sector, and one is an internal course on Cultural Competence and Effective Communication.⁷² While the courses are valuable if they encourage the hearing officer to communicate in a way that the taxpayer understands and feels heard, the subject of taxpayer rights is not discussed.
- The FY 2013 CPE schedule for Revenue Agents includes six required and ten optional courses, which focus primarily on technical topics without any mention of taxpayer rights in the course descriptions.⁷³
- The FY 2013 CPE for Field Assistance includes more than 20 courses including electives, with no mention of taxpayer rights in any of the descriptions. The Field Assistance CPE does contain a course on currently not collectible (CNC) status, but the topic description shows that its focus is on conducting the Tiered Interview and asking the question "Can You Full Pay Today?"

The IRS misses out on the opportunity to use the TBOR as framework for all training, which would show employees where the fundamental taxpayer rights arise in their daily work and how to protect these rights. TAS recognizes that some CPE courses may contain substantial taxpayer rights information even when the course descriptions do not reference taxpayer rights. Through research requests associated with the Annual Report to Congress, TAS has requested the following information from each IRS Operating Division and the Office of Appeals:

- A detailed account of taxpayer rights education and training for new employees;
- Documentation that taxpayer rights were included in 2012 and 2013 CPE events; and
- A description of the nature of training on taxpayer rights.

TAS will analyze the information received and plans to incorporate its analysis and findings in the National Taxpayer Advocate's 2013 Annual Report to Congress. As

⁷² FY13CPE_TopicSchedule.xls posted on Appeals' internal website (last modified July 1, 2013).

⁷³ IRS, FY 13 Exam CPE, Mandatory Lessons (June 28, 2013); FY 13 Exam CPE, Optional Lessons (July 18, 2013).

outlined in the Action Item below, TAS will conduct a full audit of IRS employee training on taxpayer rights.

TAS's Roadmap to a Tax Controversy Training

TAS provides its employees with a strong foundation in taxpayer rights by requiring all employees, not only new hires or employees who work cases, to take comprehensive taxpayer rights training. In the fall of 2012, TAS developed a three-part training called the *Roadmap to a Tax Controversy*. The first phase (Level One) is required for all TAS employees and provides a high-level overview of the legal issues related to return filing, examinations, collections, appeals, and judicial review. Having all employees obtain an understanding of how the tax controversy process works from start to finish is so important that the National Taxpayer Advocate taught the initial *Roadmap to a Tax Controversy* course.

Level One consists of three DVDs approximately one hour long, a course book, and a facilitator guide.⁷⁴ It includes three roadmaps:

- Pre-Litigation and Administrative Procedures
- Litigation and Assessment
- Collection

TAS produced posters of all three roadmaps, which it distributed to TAS offices and Low Income Taxpayer Clinics (LITCs), and made available to all IRS employees as official publications.⁷⁵ These posters are included in Appendix E. The Level One course is designed to educate employees about procedural issues that have significance both for the taxpayer and for the employee's efforts to assist the taxpayer.

What is notable about TAS's training is that it requires all employees to acquire a working understanding of the entire tax controversy process, not just the particular stage at which they come into contact with the taxpayer. For example, a Collection employee learns about what occurs during an examination and what rights are attached to a statutory notice of deficiency. This background gives the employee a better understanding of what appeal rights the taxpayer has already had and what rights to challenge the liability are still available to the taxpayer.

TAS Action Items:

Action Item 3.1: Conduct a comprehensive audit of all IRS employee training to analyze what training the IRS provides on taxpayer rights. Develop guidelines and

⁷⁴ See

<http://tasnew.web.irs.gov/video/Production/TASCasts/RoadmapToTaxControversy/LevelOnePartOne.html>

⁷⁵ IRS Publications 5122, 5122-A, and 5122-B, available at: <http://publish.no.irs.gov/ephome.html> (last visited Oct. 30, 2013).

examples for incorporating taxpayer rights into training and develop a stand-alone training module on taxpayer rights. Revise TAS *Roadmap to a Tax Controversy* training so it is appropriate for all IRS employees.

Recommendation to Commissioner:

Recommendation 4.1: Require all updates of training modules to include a significant segment on taxpayer rights, developed using TAS’s guidelines or the independent taxpayer rights training module developed by TAS. Require all IRS employees to take the (revised) *Roadmap to a Tax Controversy* Level One training.

B. Taxpayer Rights Content in the IRM

The IRS describes the Internal Revenue Manual as “the primary, official source of IRS ‘instructions to staff’ that relate to the administration and operation of the Service.”⁷⁶ In the absence of other training, employees rely on the IRM for daily guidance in how to do their jobs. In some cases, there appears to be an assumption that following the IRM alone is sufficient to protect taxpayer rights because these rights should be embedded in any procedures. Individual IRM sections that cover specific taxpayer situations may include reminders about taxpayer rights that apply in those situations, but do not provide a larger picture of what rights a taxpayer has or why they are important.

For example, the Collection Appeals Rights section of the IRM states broadly, “The CDP appeal provisions give taxpayers an opportunity for an independent review by Appeals, to ensure that the proposed levy or lien filing is warranted.”⁷⁷ However, what is missing from this description is more information about the fundamental elements of a collection due process hearing.

The point of CDP hearings is not merely for Appeals to ascertain whether the collection action was warranted, but among other things to verify that Collection followed proper procedures in filing the lien or notice of levy and to determine “*whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.*”⁷⁸ Without broader training on taxpayer rights that adhere during the CDP process, employees cannot understand the purpose of a CDP hearing and the scope of a taxpayer’s *right to appeal* by reading the IRM. Without that understanding, IRS employees will not provide taxpayers with their full due process protections. IRM sections sometimes include reminders for employees to ensure that they have taken a specific action to protect taxpayer rights. For example, in examination cases where the IRS issues a statutory notice of deficiency and the taxpayer has requested additional time to respond, the IRM advises employees to inform the taxpayer that any

⁷⁶ IRM 1.11.2.2 (May 11, 2012).

⁷⁷ IRM 5.19.8.4.1 (Aug. 27, 2010).

⁷⁸ IRC § 6330(c) (emphasis added).

extension to submit additional documentation will not extend the time to petition Tax Court.⁷⁹ However, employees may not understand why this is important for taxpayers: that if the taxpayer does not petition the Tax Court within a certain number of days, he or she will lose the ability to challenge the liability determination in Tax Court, thereby undermining the taxpayer's *right to an appeal in an independent forum*.

The IRS could provide employees with a better understanding of taxpayer rights by including similar examples of potential impact in key enforcement sections of the IRM, such as Liens and Levy actions in Collection, and Statutory Notices of Deficiency in Exam. Moreover, the Tax Court website has excellent information and videos to assist taxpayers who may be self-represented and thus unsure about whether they can navigate the litigation process.⁸⁰ The IRM should provide IRS employees with the appropriate links to this information and direct employees to encourage taxpayers to visit the site so they can learn more about the Tax Court.

Reviewing IRM guidance is one of the most critical tools TAS has in protecting taxpayer rights. TAS obtains copies of certain draft IRMs during the clearance process and has the opportunity to comment on the drafts and suggest changes. These changes can involve making substantive suggestions about policies that impact taxpayer rights. In addition to IRMs, TAS also reviews SERP (Servicewide Electronic Research Program) Alerts and other IRS guidance. The process allows TAS to have input into IRS policies and guidance *before* they are issued. TAS has long argued that it is better to be involved from the outset than have to intervene later and fix a problem.

In the TAS 60 Day Report, TAS Action Item 3.1 was to “perform a comprehensive review of the Internal Revenue Manual to determine appropriate locations to place information about TAS, Low Income Taxpayer Clinics, and taxpayer rights.”⁸¹ As part of this current report, TAS is reviewing the IRM, with the exception of certain administrative sections, to identify instances where taxpayer rights should be included – either because taxpayers need to be educated about their rights or because IRS employees need to be aware of the rights available to taxpayers in specific situations.

For IRM sections identified in TAS's broader review of the entire IRM, TAS will suggest changes through its standard IRM review procedures conducted through the Internal Management Guidance / Single Point of Contact process. The recommended changes will vary by section. Some changes may be as simple as reminding the IRS employee to take the time to go over Publication 1 with the taxpayer and ask if the taxpayer has any questions about his or her rights. In other situations, the added language may explain that this type of case might be referred to TAS and provide a link to the TAS

⁷⁹ IRM 4.19.13.9.6 (April 9, 2012).

⁸⁰ See https://www.ustaxcourt.gov/taxpayer_info_intro.htm. The site also includes a fillable petition, a seven-part video outlining what happens when a case goes to Tax Court, and a glossary of common terms used in connection with Tax Court cases.

⁸¹ 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*, Appendix G (Aug. 19, 2013).

webpage with information for that employee's function.⁸² In still other areas, the change may be only a sentence that describes the underlying taxpayer right and how this particular section furthers that protection, with a link to the TAS toolkit.⁸³ TAS looks forward to working with the IRS to develop language for the updates to its IRM. TAS is also reviewing its own IRM and will add taxpayer rights references.

TAS Action Items:

Action Item 4.1: Conduct comprehensive audit of all IRM sections, excluding administrative sections, to identify sections that require updates to add taxpayer rights information.

Action Item 4.2: Formulate language on taxpayer rights to be included in all IRM sections identified where further information on taxpayer rights would be helpful.

Recommendation to Commissioner:

Recommendation 5.1: Require updates of all IRM sections identified by TAS with language provided by TAS to incorporate taxpayer rights into the IRM.

C. Taxpayer Rights Awareness through Performance Measurements

Balanced Measures should Incorporate Taxpayer Rights

The IRS measures performance through the Balanced Performance Measurement System, which arose following the passage of the IRS Restructuring and Reform Act of 1998 (RRA 98). This legislation required the IRS to review and revise its mission statement to "place a greater emphasis on serving the public and meeting taxpayers' needs."⁸⁴ The legislation promotes all of the rights included in the TBOR by requiring the IRS to measure employees on how they treat taxpayers. RRA 98 states: "The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance."⁸⁵ The legislative history reflects a commitment to giving the IRS flexibility in establishing the new performance management system and to allowing the IRS to refocus its measures on its overall mission.⁸⁶

⁸² See TAS 60 Day Report 34 ("Action Item 4.2 Develop a web page for each function (*i.e.*, an employee toolkit) on the intranet, providing employees with information on TAS that is relevant to that particular function, including common interactions with TAS, cases referrals to TAS, and links to TAS training materials.").

⁸⁴ Pub. L. No. 105-206, § 1002, 112 Stat. 685, 690, (July 22, 1998).

⁸⁵ Pub. L. No. 105-206, § 1204(b), 112 Stat. 685, (1998).

⁸⁶ H. R. Rep. No. 105-599, 233 (1998) (Conf. Rep.) ("The conferees intend to give the IRS flexibility to establish a new performance management system. The conferees expect that this will refocus the IRS' personnel system on the overall mission of the IRS and how each employee's performance relates to that mission").

The IRS's current balanced measures contain three elements: Customer Satisfaction, Employee Satisfaction, and Business Results (comprised of measures of Quantity and Quality).

Customer Satisfaction

The IRS goal for Customer Satisfaction is to “measure how well the IRS provides accurate and professional services to internal and external customers in a courteous, timely manner.”⁸⁷ Customer Satisfaction looks at overall satisfaction as perceived by internal and external customers.⁸⁸ One way for IRS business units to incorporate taxpayer rights into this measure is through customer satisfaction survey questions.

TAS uses survey questions to determine if TAS is being responsive to the taxpayer's needs regarding timeliness, accuracy, fairness, and the resolution of the problem. TAS asks taxpayers how satisfied they are that their Case Advocates treated them fairly.⁸⁹ This question speaks to how taxpayers perceive their interaction in terms of the fundamental fairness of the system. TAS also asks taxpayers whether their Case Advocates listened to them, which elicits a taxpayer's *right to be heard*.⁹⁰ However, TAS's Customer Satisfaction survey is lacking a key question regarding taxpayer rights: Did the Case Advocate help you understand your rights as a taxpayer? This question would gauge whether the Case Advocate supported a taxpayer's *right to be informed*. It would also determine whether the Advocate was effective in communicating taxpayer rights to the taxpayer.

TAS has a case quality attribute that asks whether the employee “educated/explained preventative actions to taxpayer.”⁹¹ This question only asks about preventative actions and not other rights a taxpayer may have. Furthermore, it is necessary to have both a case quality attribute and a survey question that ask about whether the taxpayer was educated about their rights. In some cases, the employee may have talked about rights, but the survey may show he or she was ineffective because the taxpayer did not understand those rights.

TAS also has a case quality attribute that asks the taxpayer if, “Recourse and/or applicable appeal rights explained if requested relief not provided.”⁹² The *right to appeal* is just one right, and so a broader case quality attribute is needed, one that would ask whether the employee informed the taxpayer of all relevant rights. For example, details of how to satisfy this question would cover the employee needing to inform the taxpayer about Low Income Taxpayer Clinics, which is part of a taxpayer's *right to retain representation*.

⁸⁷ IRM 1.5.1.5 (Nov. 1, 2011).

⁸⁸ IRM Exhibit 1.5.1-2 (Aug. 21, 2009).

⁸⁹ TAS FY 2013 Customer Satisfaction Survey.

⁹⁰ *Id.*

⁹¹ New TAS Case Quality Attributes (Dec. 3, 2010).

⁹² New TAS Case Quality Attributes (Dec. 3, 2010).

Employee Satisfaction

The goal of the employee satisfaction element is to measure “how well the IRS creates an enabling work environment for employees by providing quality leadership, adequate training, and effective support services.”⁹³ Employee practices that protect taxpayer rights go hand in hand with employee satisfaction. If employees are proud of their work – *i.e.*, they feel that they make a difference and deal fairly and justly with taxpayers -- they will feel more fulfilled in their jobs. If employees cannot resolve issues inside the IRS but can point the taxpayer to avenues outside the IRS, like the LITCs or Tax Court, they may feel more empowered in their jobs and better engaged. If they understand the scope of tax administration and the important procedural rights available, they will understand the importance of their specific job and take greater pride in their role. Thus, the IRS misses an opportunity by not clearly emphasizing taxpayer rights as an element of employee satisfaction.

Business Results: Quantity and Quality

The goal of the Business Results measure is “to measure how much work the IRS produces in a quality manner and to provide meaningful outreach to customers.”⁹⁴ Thus, business results contain both quantity and quality measures. Quantity measures include areas such as “the number of cases closed, work items completed, and hours expended.”⁹⁵ These measures can be problematic because they tell us nothing about whether the IRS acted in accordance with taxpayer rights, and focus solely on the number of items completed in a specified time. To offset this tendency, the IRS could create a rolling, long-term measure of taxpayer voluntary compliance. A rolling measure would show that IRS enforcement actions educate and result in more lasting compliance by the taxpayer. For example, the IRS could measure the results of all Earned Income Tax Credit (EITC) audits in a year and determine whether the taxpayers were compliant in subsequent years. A low rate of subsequent EITC reporting compliance implies that the IRS is doing a poor job of educating the taxpayer about what constitutes compliant behavior in the context of the EITC, which in turn would lead to better audit approaches and techniques, the benefits of which can also be tracked by this measure.⁹⁶

Quality measures focus on efficiency and include items such as “case/call review data, accuracy, and timeliness.”⁹⁷ Quality reviews are done at the office level, providing the organization with information about which offices have challenges in certain areas. If

⁹³ IRM 1.5.1.5 (Nov. 1, 2011).

⁹⁴ *Id.*

⁹⁵ IRM 1.5.1.8.2 (Aug. 21, 2009).

⁹⁶ TAS collaborated with the Wage & Investment and Small Business/Self-Employed Operating Divisions to study the impact of enhanced communication on the outcome of EITC audits. The study measures a number of key outcomes, including the subsequent EITC reporting compliance of participants. Results will be published in volume 2 of the 2013 National Taxpayer Advocate Annual Report to Congress.

⁹⁷ IRM 1.5.1.8.2 (Aug. 21, 2009).

designed correctly, quality measures can balance quantity measures by examining actions such as whether the IRS computed the liability correctly or helped the taxpayer to resolve a case.

Many IRS case quality scores do not include taxpayer rights measurements, other than ascertaining whether the employee provided the taxpayer with the required written notice or Publication 1. For example, the Appeals Case Quality standards include “Did Appeals Provide Appropriate Taxpayer Customer Service and Respect Taxpayer’s Rights?”⁹⁸ In order to meet the standard of informing taxpayers of their rights, employees only have to provide the Uniform Acknowledgement Letter timely (within 30 days of case receipt in Appeals) along with Publication 4227, *Overview of the Appeals Process Brochure*, and Notice 1016 *How to Stop Interest on Your Account*. Additionally, they should communicate the current status of the case within reasonable intervals, which is approximately every 90 days. Employees can demonstrate that the taxpayer was informed of his or her rights, including appeal rights, by providing the taxpayer with notices and publications.

In contrast, TAS has two distinct case quality attributes regarding whether the employee actually educated the taxpayer on his or her rights.⁹⁹ Under the Communication Category, TAS includes the following measures:

- Provide the taxpayer or representative with an explanation of the cause of the problem and a clear, complete and correct explanation of what was done to resolve the problem.
- Educate/explain preventive actions to taxpayer.

Under the Technical Category, TAS includes:

- Explain recourse and/or applicable appeal rights if requested relief not provided.

TAS also requires its employees to determine whether the case qualifies for a Taxpayer Assistance Order, which is a valuable tool that is part of a taxpayer’s *right to a fair and just tax system*.

Employee Evaluations: Critical Job Elements

⁹⁸ Appeals Quality Measurement System Reviewer’s Guide for Non-Collection Cases Standard 1, Did Appeals Provide Appropriate Customer Service and Respect Taxpayers’ Rights? 29-63 (Revised Oct. 1, 2012).

⁹⁹ See New TAS Case Quality Attributes, *available at*:

http://tasnew.web.irs.gov/files/Businessresults/Quality/Case/TAS_38_Case_Quality_Attributes.doc (last visited Oct. 30, 2013).

As discussed above, RRA 98 requires the IRS to evaluate an employee's performance based on the "fair and equitable treatment of taxpayers by employees."¹⁰⁰ The IRS provides broad, overall guidelines for Critical Job Elements (CJEs),¹⁰¹ as part of employees' performance evaluations, but does not include knowledge and protection of taxpayer rights as an element.¹⁰²

The IRS also can reinforce the TBOR and meet the RRA 98 requirement by updating the CJEs for specific positions, which vary greatly in terms of their focus on taxpayer rights. For example, the Revenue Officer CJEs include an entire subsection devoted to taxpayer rights under the category of Customer Satisfaction - Knowledge.¹⁰³ To receive an "Exceeds" rating in this category, an employee must always:

- Educate the taxpayer of his or her rights throughout the collection process;
- Ensure the taxpayer's rights are observed and protected throughout the collection process;
- Protect the confidentiality of taxpayer return and case related information; and
- Accurately explain the collection process throughout the case progression.¹⁰⁴

In contrast, the CJEs for Customer Service Representatives (CSRs), who make up much of the Automated Collection System, only have one taxpayer rights measure, even though CSRs have contact with more taxpayers than other IRS employees. This measure, "ensures that taxpayer rights are appropriately protected," is part of the broader subsection, Technical Knowledge/Research.¹⁰⁵ The contrast between CJEs for Revenue Officers and ACS employees is concerning because ACS employees work far more collection cases and have contact with more taxpayers than Revenue Officers.¹⁰⁶

Business Performance Reviews

In addition to CJEs and case quality scores, the operating divisions themselves should report on whether they educated their employees on taxpayer rights and incorporated the TBOR into their actions. Each division conducts a quarterly Business Performance

¹⁰⁰ Pub. L. No. 105-206, § 1204(b), 112 Stat. 685, 722 (July 22, 1998).

¹⁰¹ The IRS uses CJEs for each employee position to assess an employee's performance.

¹⁰² Guidelines For Developing Critical Job Element (CJE) Performance Plans, IRM Exhibit 6.430.2-2 (Jan. 1, 2007).

¹⁰³ See Performance Plan for Revenue Officer Advisor / Reviewer and Revenue Officer / Independent Administrative Reviewer GS-1169 (Mar. 2006).

¹⁰⁴ See *id.*

¹⁰⁵ See Performance Plan for Customer Service Representative GS-0962 (Dec. 2004).

¹⁰⁶ In fiscal year 2013, there were: 638,793 field levies versus 1,216,302 ACS levies; 63,944 field installment agreements versus 699,200 ACS installment agreements; and 228,318 currently not collectible field cases versus 346,576 currently not collectible ACS cases. Collection Activity Reports No. 5000-24 (Oct. 29, 2013), No. 5000-6 (Oct. 29, 2013), No. 5000-149 (Oct. 29, 2013). Currently not collectible numbers are hardship only.

Review (BPR) to discuss progress, how it has met performance goals, and how emerging issues may affect its programs.¹⁰⁷ The TBOR should provide a framework for analyzing each OD's performance.

In addition, when IRS functions propose initiatives, including budget initiatives, they should be required to include an analysis of the proposed operation in terms of the TBOR in their business case justifications. Functions could fulfill this requirement by obtaining and including a Taxpayer Rights Impact Statement (TRIS) from the National Taxpayer Advocate and TAS.¹⁰⁸ A TRIS would serve a purpose similar to that of the Privacy Impact Statement, but would deal with taxpayer rights.

TAS Action Items:

Action Item 5.1: Review case quality attributes of functions and recommend proposed changes to operating divisions and functions.

Action Item 5.2: Add a customer satisfaction survey question: "Did the Case Advocate help you understand your rights as a taxpayer?" and amend the TAS case quality attribute to say "educated/explained preventative actions and informed the taxpayer of all applicable rights."

Recommendations to Commissioner:

Recommendation 6.1: Require all operating divisions to update their case quality attributes to measure, at a minimum:

- Whether the employee informed the taxpayer of all relevant appeal rights, including recourse to Tax Court and to LITCs;
- Whether the employee considered if the case qualifies for TAS assistance; and
- Whether the employee made an appropriate referral to TAS if the case qualified for TAS assistance.

Recommendation 6.2: Require all IRS operating divisions and functions when proposing initiatives, including budget initiatives, to include an analysis of the proposed operation in terms of the TBOR in their business case justifications.

Recommendation 6.3: Require all operating divisions to include in their BPRs an analysis of how employees were trained on taxpayer rights issues and what actions the operating divisions took to incorporate the TBOR into their programs.

¹⁰⁷ See IRM 1.5.1.15 (Nov. 1, 2011).

¹⁰⁸ A Taxpayer Rights Impact Statement (TRIS) is "a written analysis from the NTA to the particular OD or function relating to the IRS activity or procedure that infringes on taxpayers' rights or unnecessarily burdens taxpayers." IRM 13.2.1.6.1.2 (July 16, 2009).

Recommendation 6.4: Add to all customer satisfaction surveys given to taxpayers interacting with IRS employees: “Did the IRS employee help you understand your rights as a taxpayer?”

D. Reinforcing Employees’ Awareness of Taxpayer Rights

In addition to training and educating its employees on taxpayer rights, the IRS should continuously remind employees to consider these rights in their daily jobs. The IRS does this on a limited basis in its effort to stop unauthorized access to taxpayer account information, known as UNAX. Unauthorized access is a major violation of a taxpayer’s *right to confidentiality*. Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed to third parties unless authorized by the taxpayer or by law. The IRS requires employees to view, and to certify that they have completed, an annual online briefing on UNAX. The IRS also distributes UNAX posters to managers to place throughout offices “where the maximum number of employees will see them.”¹⁰⁹

While the posters and briefings may help to protect a taxpayer’s *right to confidentiality*, this is only one of the rights that IRS employees should remember. It is no less important for employees to know that – among other rights - taxpayers are entitled to *clear explanations* and *courteous service, to be heard, and to be represented*. The IRS has worked to improve policies and procedures in some of these areas, such as attempting to make the tax system more clear by simplifying correspondence and using plain language with the public. However, it has not presented these steps to its employees under the umbrella of taxpayer rights, nor has it sought to make the concept of taxpayer rights part of the fabric of employees’ daily lives.

TAS is creating a poster, similar to the UNAX posters, listing a taxpayer’s rights found in the TBOR that can be placed in employee offices. The poster will emphasize the TBOR as a “framework for effective tax administration.”

TAS Action Item:

Action Item 6.1: Finalize poster version of taxpayer rights to be placed in IRS employee offices.

Recommendations to Commissioner:

Recommendation 7.1: Require distribution of taxpayer rights posters to managers and require all employee offices to place the taxpayer rights poster in places where the

¹⁰⁹ See IRWeb News Center, Leader’s Alert, “Place UNAX posters where your employees will see them” (Apr. 30, 2013).

maximum number of employees will see them, in the same way UNAX posters are posted.

Recommendation 7.2: Develop and deliver a servicewide information campaign that emphasizes the TBOR as a “framework for effective tax administration.”

V. OTHER MECHANISMS FOR PROVIDING TAXPAYER ASSISTANCE IN ASSERTING THEIR RIGHTS

To fully carry out the TBOR, the IRS must have mechanisms for taxpayers to be informed about their rights, to raise issues with the IRS when policies or programs affect their rights, and to seek assistance when the IRS is not respecting their rights. The IRS already has some of these mechanisms in place, but can improve each of them to fully support the TBOR.

A. TAS’s Systemic Advocacy Management System

TAS’s Systemic Advocacy Management System (SAMS) provides an essential resource for taxpayers to raise concerns about IRS processes or procedures that negatively impact or violate taxpayer rights. In some cases, the concerns may involve fundamental violations of taxpayer rights, such as an IRS policy that does not provide a taxpayer with enough time to ask for an appeal. Other issues may raise concerns about procedures that are simply taking too long or causing taxpayer burden – these issues also implicate the TBOR because taxpayers have a *right to quality service*.

Taxpayers, practitioners, TAS employees, and IRS employees can submit systemic issues on SAMS. TAS uses SAMS to capture these issues, track research, and manage advocacy initiatives that TAS undertakes to resolve systemic problems. The TAS 60 Day Report discusses SAMS in greater depth, including how exempt organizations could have used SAMS to alert TAS to the underlying problems with selecting exempt organization applications for review.¹¹⁰ In this report, we reiterate the following Action Items and Recommendations from the 60 Day Report:

TAS Action Items:

Action Item 7.1: Raise awareness of SAMS during internal outreach, create new PowerPoint slides informing employees how to submit issues on SAMS, and provide examples of issues that have been resolved including general examples as well as examples customized to certain functional areas.

Action Item 7.2: Conduct an audit of IRS.gov to identify appropriate Internet pages on which information about making submissions to SAMS should be posted.

¹¹⁰ See TAS 60 Day Report 36.

Recommendations to Commissioner:

Recommendation 8.1: Direct appropriate IRS personnel to add TAS-supplied text and links to TAS's Systemic Advocacy Management System on intranet pages identified by TAS.

Recommendation 8.2: Embed information about, and a link to, the Systemic Advocacy Management System on appropriate IRS.gov pages recommended by the National Taxpayer Advocate for the purpose of informing taxpayers how they can report systemic problems for review by TAS.

Recommendation 8.3: Require IRS outreach personnel to include TAS in outreach events with practitioner groups to speak about Systemic Advocacy and SAMS. Alternatively, where TAS is not present, the IRS should include material about TAS and SAMS in its materials for practitioner outreach events.

B. Low Income Taxpayer Clinic Program

Another mechanism for the IRS to carry out the TBOR is the Low Income Taxpayer Clinic program. Its mission is to ensure the fairness and integrity of the tax system by:

- Providing *pro bono* representation to taxpayers in tax disputes with the IRS;
- Educating low income taxpayers about their rights and responsibilities;
- Conducting outreach and education to English as a second language (ESL) taxpayers; and
- Identifying and advocating for issues that impact low income taxpayers.

All of these goals relate directly to many of the fundamental taxpayer rights in the TBOR. LITCs provide access to justice for the population most likely to be overridden by the IRS and not have their issues heard because they cannot afford representation.

The Right to Retain Representation

A taxpayer's *right to retain representation*, including when he or she cannot afford to hire a representative, is realized through the LITC program. IRC § 7526 authorizes the Secretary of the Treasury to award matching grants of up to \$100,000 per year to qualifying organizations that represent low income taxpayers involved in controversies with the IRS, educate ESL taxpayers about their rights and responsibilities as taxpayers, or both. For organizations to qualify for a grant, at least 90 percent of the taxpayers represented must have incomes that do not exceed 250 percent of the federal poverty level, and the amount in controversy for any taxable year generally

cannot exceed a certain amount.¹¹¹ Due to these requirements, LITCs represent many taxpayers who otherwise could not afford representation before the IRS. During grant year 2012, LITCs worked 19,022 total tax controversy cases and represented 21,700 taxpayers.¹¹²

Representation can have a significant impact on the outcomes in taxpayer cases. For example, in a review of the top ten most litigated issues during the period June 1, 2011, through May 31, 2012, taxpayers without representation (*pro se* taxpayers) prevailed in whole or in part 13 percent of the time in 2011, while represented taxpayers prevailed in whole or in part 28 percent of the time.¹¹³ Furthermore, a 2007 TAS research study found that represented taxpayers are nearly twice as likely to be found eligible for the Earned Income Tax Credit compared to those who are not represented during the audit process.¹¹⁴

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

LITCs also support a taxpayer's right to object to IRS actions or proposed actions and provide documentation to support his or her position. The *right to challenge and be heard* arises throughout a taxpayer's interaction with the IRS, whether it involves a freeze placed on a taxpayer's account, an examination determination, or a collection action. LITCs assist taxpayers in challenging IRS action throughout the tax controversy process. The following is a breakdown of LITC cases worked in 2012.¹¹⁵

Accounts Management	18.0%
Examination	20.7%
Collection	40.9%
Appeals	6.1%
Litigation	6.5%
Other	7.8%

The Right to Appeal an IRS Decision in an Independent Forum

A taxpayer's *right to appeal* a decision arises during the administrative process when taxpayers are eligible for an Appeals conference with the IRS Office of Appeals. It also occurs when taxpayers have the right to challenge the IRS in one of the federal courts, such as the U.S. Tax Court and the U.S. District Courts. As stated above, 6.1 percent

¹¹¹ See IRC § 7526(b)(1)(B). Currently, the amount in controversy generally cannot exceed \$50,000. See IRC § 7436(a).

¹¹² LITC Year-End Reports, Grant Year 2012 (data current as of Sept. 17, 2013).

¹¹³ National Taxpayer Advocate 2012 Annual Report to Congress 563, Table 3.0.2.

¹¹⁴ National Taxpayer Advocate 2007 Annual Report to Congress, vol. 2, 96. The study also notes that the average percentage of original EITC retained is 44.8 percent for represented taxpayers versus 25.3 percent for unrepresented taxpayers. *Id.* at 111.

¹¹⁵ Publication 5066, *Low Income Taxpayer Clinics Program Report* (Feb. 2013), available at <http://www.taxpayeradvocate.irs.gov/LITC>.

of all LITC cases worked in 2012 involved the IRS Office of Appeals, while another 6.3 percent involved litigation in one of the federal courts. During the first half of 2012, LITCs represented or advised low income taxpayers in more than 1,100 cases in federal courts.¹¹⁶

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

As part of the TBOR, taxpayers have the *right to pay no more than the amount of tax that is legally due*. Taxpayers without representation may not know to challenge or how to challenge an assessment that is more than what they owe under the law. LITCs play a vital role in helping low income taxpayers pay only what they owe, which may differ from the IRS's initial or proposed assessment. In 2012, LITCs worked with taxpayers and the IRS to correct taxpayers' liabilities, reducing LITC clients' liabilities by over \$35 million.¹¹⁷

The Right to be Informed

The LITC Program Office provides for a taxpayer's *right to be informed* through educational and outreach opportunities. These efforts generate casework, consultations,¹¹⁸ and additional opportunities to make educational presentations. Clinics may conduct educational and outreach activities directly to ESL and low income taxpayers, or offer them indirectly by providing tax information to other community-based organizations that assist and serve these taxpayers. For example, a clinic may teach caseworkers at an immigrant rights organization about the different types of IRS notices so they can identify their clients' tax problems and refer them to the LITC for help. LITCs also educate taxpayers about their responsibilities.

In the first half of the 2012 grant year, clinics conducted over 2,700 outreach activities and nearly 1,900 educational events that provided information on such topics as the EITC, taxpayer rights and responsibilities, innocent spouse claims, worker classification, and collection alternatives.¹¹⁹ In addition, the clinics conducted direct consultations with more than 13,000 taxpayers, about 56 percent of whom speak English as a second language. Clinics also provide technical assistance consultations, which are designed to give brief advice about a tax issue to a practitioner or other taxpayer service provider. In the first half of 2012, clinics conducted over 1,400 technical assistance consultations.¹²⁰

¹¹⁶ Publication 5066, *Low Income Taxpayer Clinics Program Report* (Feb. 2013), available at <http://www.taxpayeradvocate.irs.gov/LITC>.

¹¹⁷ LITC Year-End Reports, Grant Year 2012 (data current as of Sept. 17, 2013).

¹¹⁸ A consultation is a discussion with a taxpayer designed to provide advice about a specific tax matter that does not result in representation of the taxpayer. Publication 5066, *Low Income Taxpayer Clinics Program Report* 12 (Feb.. 2013) available at: <http://www.taxpayeradvocate.irs.gov/LITC>.

¹¹⁹ The LITC grant year runs from January 1 through December 31.

¹²⁰ Publication 5066, *Low Income Taxpayer Clinics Program Report* 12 (Feb. 2013) available at: <http://www.taxpayeradvocate.irs.gov/LITC>.

In February 2013, the LITC Program Office released its first program report. Publication 5066, *Low Income Taxpayer Clinic Program Report*, and the related infographic¹²¹ provide an overview and history of the program, describe the types of work the clinics perform, and explain how this work helps ensure the fairness and integrity of the tax system. The report:

- Details the mission and purpose of the LITC program;
- Identifies the client base;
- Discusses how the matching funds requirement leverages the federal funding investment so LITCs can assist more taxpayers in need; and
- Lists program office activities.¹²²

Understanding the Needs of Low Income Taxpayers

TAS Research is working with a vendor to develop a telephone survey of potential LITC users to identify the needs of this population with respect to resolution of tax controversies and education about their rights and responsibilities as U.S. taxpayers. The sample will include 1,000 randomly selected respondents drawn from the national population of taxpayers with incomes at or below 250 percent of the federal poverty level. This should include about 50-60 Spanish-speaking respondents, with the number increasing to 200 such respondents in a separate survey. The survey will use a sample representative of the population of both landline and cellphone users. TAS anticipates completing this research by the end of June 2014 and publishing the results in the National Taxpayer Advocate's 2014 Annual Report to Congress.¹²³

Expanded Distribution of Publication 4134 will Protect the Rights of Low Income Taxpayers

TAS annually publishes a list of LITC grantees, which is enclosed with certain IRS notices, to advise low income taxpayers about the availability of free or low cost representation from an LITC. Publication 4134, *Low Income Taxpayer Clinic List* provides general contact information for each clinic, the types of services provided, and the languages in which services are provided. Information about income eligibility requirements for representation services is also included. Publication 4134 is available on [IRS.gov](http://www.irs.gov).

The IRS includes a copy of Publication 4134 with the following notices:

- CP 91, *Final Notice before Levy on Social Security Benefits*; and
- CP 298, *Final Notice before Levy on Social Security Benefits*

¹²¹ Available at: http://www.irs.gov/file_source/pub/irs-utl/LITC_Infographic.pdf.

¹²² See IRC § 7526(c)(5)(clinic must provide matching funds on a dollar for dollar basis for all grants awarded).

¹²³ See National Taxpayer Advocate Fiscal Year 2014 Objectives Report to Congress 71.

Until January 2013, the IRS included Publication 4134 in these additional notices:

- CP 75, *Exam Initial Contact Letter- EIC- Refund Frozen*;
- CP 75A, *Exam Initial Contact Letter- EIC- No Refund Frozen*;
- CP 75C, *EIC Recertification*; and
- CP75D, *Exam Initial Contact Letter- EIC- Entire Refund Frozen*¹²⁴

These notices now mention Publication 4134 only in their text. By not providing the publication or otherwise advising taxpayers of the existence of LITCs in their geographic areas, the IRS curtails a taxpayer's *right to be informed* and *right to be represented*.

As noted above, TAS is auditing the IRM, including its own IRM, to identify instances where IRS employees should inform taxpayers about LITCs.¹²⁵ An initial review found that LITC referral language should be included in employee-taxpayer interactions that involve:

- Frozen refunds and return processing delays;
- Math error notices;
- Injured spouse claims;
- Backup withholding;
- Examination notices (including automated notices);
- Any collection actions;
- Denied refund claims;
- Identify theft matters;
- Innocent spouse relief;
- Worker classification determinations;
- ITIN application processing;
- Trust fund recovery penalties and
- Any other time the taxpayer has appeal rights.

Once TAS completes its review of the entire IRM, it will work with the IRS to incorporate new language regarding LITCs. In some cases, this language may require an employee to simply tell a taxpayer to look at the LITC webpage, or send the brochure. In other cases, it may require the employee to provide the taxpayer with a list of LITCs in the area. In other instances, we may ask the IRS to include Publication 4134 in notices likely to go to low income taxpayers.

TAS Action Item:

Action Item 8.1: Conduct a comprehensive audit of the IRM, letters, and notices to identify to identify appropriate places to include information about LITCs and the

¹²⁴ See Office of Taxpayer Correspondence email to TAS (Feb. 7, 2013) (on file with TAS).

¹²⁵ TAS is performing this review in response to action item 3.1 in the TAS 60 Day Report.

appropriate circumstances in which IRS employees should refer taxpayers to LITCs for representation.

Recommendations to Commissioner:

Recommendation 9.1: Update all IRM sections specified by TAS where employees communicate directly with individual taxpayers to require employees to inform taxpayers about LITCs in appropriate circumstances.

Recommendation 9.2: Require Publication 4134 to be provided with the following notices where the IRS has discontinued it:

- CP 75, *Exam Initial Contact Letter- EIC- Refund Frozen*;
- CP 75A, *Exam Initial Contact Letter- EIC- No Refund Frozen*;
- CP 75C, *EIC Recertification*; and
- CP75D, *Exam Initial Contact Letter- EIC- Entire Refund Frozen*

Recommendation 9.3: Include Publication 4134 in notices and letters identified by TAS as a result of its audit.

C. Other Problem Identification and Problem Solving Mechanisms

While the TBOR should provide a useful framework for the IRS to use in developing new initiatives, the IRS may still unknowingly make decisions that infringe upon taxpayer rights, such as the *right to quality service* or the *right to be informed* and the *right to a fair and equitable tax system*. In addition to SAMS and LITCs, the US tax system includes several mechanisms for identifying and solving problems, each of which creates an opportunity for the IRS to hear from taxpayers and other stakeholders about concerns and opportunities for improvement. These include:

- *Federal Advisory Committees*.¹²⁶ Federal advisory committees provide a valuable tool for taxpayers to share their views with the IRS, providing the IRS with information about how its policies may impact taxpayers and their rights.¹²⁷ By considering and adopting recommendations from the advisory committees, the IRS may be able to avoid problems in the first place.

¹²⁶ Congress passed the Federal Advisory Committee Act in 1972, which provided a legal foundation for how Federal Advisory Committees Operate. Pub. L. No. 92-463, 86 Stat. 770 (Oct. 6, 1972).

¹²⁷ The IRS currently has six Federal Advisory Committees: the Advisory Committee on Tax Exempt and Government Entities (ACT), the Art Advisory Panel, the Electronic Tax Administration Advisory Committee (ETAAC), the Information Reporting Program Advisory Committee (IRPAC), the Internal Revenue Service Advisory Council (IRSAC), and the Taxpayer Advocacy Panel (TAP).

- *IRS Roundtables with Public Stakeholders.* IRS roundtables with the public provide another forum for taxpayers to provide their views,¹²⁸ and enable the IRS to gather taxpayer comments before developing a new policy or procedure. This process is important, because taxpayers need to be able to communicate with the IRS about how its planned policies or procedures will impact them.
- *Consumer Tax Tips Brochures.* A fundamental element of consumer protection is providing consumers with the knowledge to make informed decisions and avoid being preyed upon. To this end, the National Taxpayer Advocate created the Consumer Tax Tip Brochures in 2007. These brochures are a consumer protection tool that educates taxpayers about issues where they frequently do not know their rights or have a high risk of being deceived or defrauded.¹²⁹ The brochures also let taxpayers know how to reach TAS if they cannot resolve their issues with the IRS.
- *The Tax Reform Suggestion Box.* All taxpayers have a stake in ensuring that policy decisions connected with fundamental tax reform take into account their viewpoints and needs. In connection with her 2010 Annual Report to Congress,¹³⁰ the National Taxpayer Advocate created an online forum for taxpayers to share their opinions about tax reform.¹³¹
- *IRS Tax Forum Focus Groups and Case Resolution Program.* To fully carry out the TBOR, it is important for the IRS to maintain a solid relationship not only with the taxpayer community, but the tax professional community. Professionals preparing returns or representing taxpayers before the IRS have firsthand knowledge of issues facing taxpayers, including issues affecting their

¹²⁸ The IRS has used roundtables successfully in the past to solicit stakeholder input on topics such as planning after the September 11, 2001 attack, innocent spouse relief, and Individual Taxpayer Identification Numbers.

¹²⁹ The National Taxpayer Advocate identified the FPLP program and mortgage verification as Most Serious Problems in her 2007 Annual Report to Congress. See National Taxpayer Advocate 2007 Annual Report to Congress 116, 324 (Most Serious Problem: *Mortgage Verification*, and Most Serious Problem: *Federal Payment Levy Program Levies on Social Security Benefits*). The FPLP brochure is available at <http://www.irs.gov/pub/irs-pdf/p4418.pdf>. The mortgage verification process brochure is available at <http://www.irs.gov/pub/irs-pdf/p4419.pdf>. The collection process brochure is available at <http://www.irs.gov/pub/irs-pdf/p5107.pdf>. Future brochures may address the Premium Tax Credit of the Affordable Care Act, identity theft, choosing a return preparer, and obtaining an Individual Taxpayer Identification Number (ITIN).

¹³⁰ In her first Annual Report to Congress in 2001, the National Taxpayer Advocate began calling for tax reform for specific areas of the Code, such as the definition of a qualifying child and head of household filing status. In the 2010 report, she identified the need for reform as the single most pressing problem for the nation's taxpayers. See National Taxpayer Advocate 2010 Annual Report to Congress 365-72 (Legislative Recommendation: *Enact Tax Reform Now*).

¹³¹ The Tax Reform Suggestion Box asks taxpayers: "What would you be willing to give up if you knew that others are giving up their breaks and the end result would be a much simpler system? What particular provisions of the existing tax system are especially burdensome or seem particularly unfair?" The Tax Reform Suggestion Box is available at <http://www.taxpayeradvocate.irs.gov/Home/tax-reform-suggestions>.

fundamental rights. Historically, the annual Nationwide Tax Forums have offered the single best chance for the IRS and TAS to interact with the return preparer community. However, the IRS has limited the effectiveness of the Tax Forums in recent years by eliminating Focus Groups and the Case Resolution Program. The National Taxpayer Advocate will address these issues in future Reports to Congress.

- *Problem Solving Days.* The IRS introduced Problem Solving Days (PSDs) in 1997 as a way for taxpayers and practitioners to meet in person with IRS officials to settle problems and disputes on the spot.¹³² PSDs were held at locations around the country on specific days. TAS will spearhead and coordinate with the operating divisions in 2014 and 2015 to launch PSDs in various locales.

VI. CONCLUSION

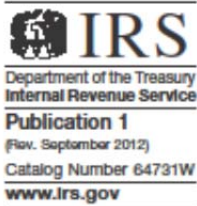
This report highlights many of the programs the IRS has in place that further taxpayer rights. It also provides recommendations for how the IRS can improve these programs and incorporate taxpayer rights more broadly into policies, procedures and materials. Of all of the recommendations, the most important and the most pressing is for the IRS to adopt a TBOR modeled after the U.S. Bill of Rights. This document would include the ten fundamental taxpayer rights and five taxpayer responsibilities that are the pillars of the U.S. tax system. This document would provide the organizing principles around which the IRS operates, affecting every decision from large scale policy decisions to individual employee actions.

The TBOR would reassure taxpayers that they have rights that the IRS must respect, reinforcing the unwritten social contract between taxpayers and the IRS. With the adoption of a TBOR, taxpayers may be more likely to perceive the IRS as fair and just, which may increase voluntary compliance. The IRS can make great strides towards protecting taxpayer rights through the adoption of a TBOR as well as the other recommendations made in this report.

¹³² From November 1997 through July 1998, more than 22,000 taxpayers met with IRS staff at the PSDs. Government Accounting Office (GAO), GAO/GGD-99-1, *Report to the Chairman, Committee on Finance, U.S. Senate: IRS's Problem Solving Days 4-5* (Oct. 1998).

VII. APPENDICES

A. Appendix A, Publication 1, *Your Rights as a Taxpayer*



THE IRS MISSION

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.

Your Rights as a Taxpayer

The first part of this publication explains some of your most important rights as a taxpayer. The second part explains the examination, appeal, collection, and refund processes. This publication is also available in Spanish.

Declaration of Taxpayer Rights

I. Protection of Your Rights

IRS employees will explain and protect your rights as a taxpayer throughout your contact with us.

II. Privacy and Confidentiality

The IRS will not disclose to anyone the information you give us, except as authorized by law. You have the right to know why we are asking you for information, how we will use it, and what happens if you do not provide requested information.

III. Professional and Courteous Service

If you believe that an IRS employee has not treated you in a professional, fair, and courteous manner, you should tell that employee's supervisor. If the supervisor's response is not satisfactory, you should write to the IRS director for your area or the center where you file your return.

IV. Representation

You may either represent yourself or, with proper written authorization, have someone else represent you in your place. Your representative must be a person allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent. If you are in an interview and ask to consult such a person, then we must stop and reschedule the interview in most cases.

You can have someone accompany you at an interview. You may make sound recordings of any meetings with our examination, appeal, or collection personnel, provided you tell us in writing 10 days before the meeting.

V. Payment of Only the Correct Amount of Tax

You are responsible for paying only the correct amount of tax due under the law—no more, no less. If you cannot pay all of your tax when it is due, you may be able to make monthly installment payments.

VI. Help With Unresolved Tax Problems

The Taxpayer Advocate Service can help you if you have tried unsuccessfully to resolve a problem with the IRS. Your local Taxpayer Advocate can offer you special help if you have a significant hardship as a result of a tax problem. For more information, call toll free 1-877-777-4778 (1-800-829-4059 for TTY/TDD) or write to the Taxpayer Advocate at the IRS office that last contacted you.

VII. Appeals and Judicial Review

If you disagree with us about the amount of your tax liability or certain collection actions, you have the right to ask the Appeals Office to review your case. You may also ask a court to review your case.

VIII. Relief From Certain Penalties and Interest

The IRS will waive penalties when allowed by law if you can show you acted reasonably and in good faith or relied on the incorrect advice of an IRS employee. We will waive interest that is the result of certain errors or delays caused by an IRS employee.

Examinations, Appeals, Collections, and Refunds

Examinations (Audits)

We accept most taxpayers' returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in more tax. We may close your case without change; or, you may receive a refund.

The process of selecting a return for examination usually begins in one of two ways. First, we use computer programs to identify returns that may have incorrect amounts. These programs may be based on information returns, such as Forms 1099 and W-2, on studies of past examinations, or on certain issues identified by compliance projects. Second, we use information from outside sources that indicates that a return may have incorrect amounts. These sources may include newspapers, public records, and individuals. If we determine that the information is accurate and reliable, we may use it to select a return for examination.

Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, explains the rules and procedures that we follow in examinations. The following sections give an overview of how we conduct examinations.

By Mail

We handle many examinations and inquiries by mail. We will send you a letter with either a request for more information or a reason why we believe a change to your return may be needed. You can respond by mail or you can request a personal interview with an examiner. If you mail us the requested information or provide an explanation, we may or may not agree with you, and we will explain the reasons for any changes. Please do not hesitate to write to us about anything you do not understand.

By Interview

If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If our examiner proposes any changes to your return, he or she will explain the reasons for the changes. If you do not agree with these changes, you can meet with the examiner's supervisor.

Repeat Examinations

If we examined your return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so

we can see if we should discontinue the examination.

Appeals

If you do not agree with the examiner's proposed changes, you can appeal them to the Appeals Office of IRS. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are explained in detail in both Publication 5, Your Appeal Rights and How To Prepare a Protest if You Don't Agree, and Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund.

If you do not wish to use the Appeals Office or disagree with its findings, you may be able to take your case to the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court where you live. If you take your case to court, the IRS will have the burden of proving certain facts if you kept adequate records to show your tax liability, cooperated with the IRS, and meet certain other conditions. If the court agrees with you on most issues in your case and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. You will not be eligible to recover these costs unless you tried to resolve your case administratively, including going through the appeals system, and you gave us the information necessary to resolve the case.

Collections

Publication 594, The IRS Collection Process, explains your rights and responsibilities regarding payment of federal taxes. It describes:

- What to do when you owe taxes. It describes what to do if you get a tax bill and what to do if you think your bill is wrong. It also covers making installment payments, delaying collection action, and submitting an offer in compromise.
- IRS collection actions. It covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property.

Your collection appeal rights are explained in detail in Publication 1680, Collection Appeal Rights.

Innocent Spouse Relief

Generally, both you and your spouse are each responsible for paying the full amount of tax, interest, and penalties due on your joint return. However, if you qualify for innocent spouse relief, you may be relieved of part or all of the joint liability. To request relief, you must file Form 8857, Request for Innocent Spouse Relief. For more information on innocent

spouse relief, see Publication 971, Innocent Spouse Relief, and Form 8857.

Potential Third Party Contacts

Generally, the IRS will deal directly with you or your duly authorized representative. However, we sometimes talk with other persons if we need information that you have been unable to provide, or to verify information we have received. If we do contact other persons, such as a neighbor, bank, employer, or employees, we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity in your case. If we do contact other persons, you have a right to request a list of those contacted.

Refunds

You may file a claim for refund if you think you paid too much tax. You must generally file the claim within 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later. The law generally provides for interest on your refund if it is not paid within 45 days of the date you filed your return or claim for refund. Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, has more information on refunds.

If you were due a refund but you did not file a return, you generally must file your return within 3 years from the date the return was due (including extensions) to get that refund.

Tax Information

The IRS provides the following sources for forms, publications, and additional information.

- **Tax Questions:** 1-800-829-1040 (1-800-829-4059 for TTY/TDD)
- **Forms and Publications:** 1-800-829-3676 (1-800-829-4059 for TTY/TDD)
- **Internet:** www.irs.gov
- **Small Business Ombudsman:** A small business entity can participate in the regulatory process and comment on enforcement actions of IRS by calling 1-888-REG-FAIR.
- **Treasury Inspector General for Tax Administration:** You can confidentially report misconduct, waste, fraud, or abuse by an IRS employee by calling 1-800-366-4484 (1-800-877-8339 for TTY/TDD). You can remain anonymous.

B. Appendix B, Taxpayer Bill of Rights Insert, Poster, Brochure, and Flyer


**TAXPAYER
BILL OF RIGHTS**


THE RIGHT TO...

- › Be Informed
- › Quality Service
- › Pay No More than the Correct Amount of Tax
- › Challenge the IRS's Position and Be Heard
- › Appeal an IRS Decision in an Independent Forum
- › Finality
- › Privacy
- › Confidentiality
- › Retain Representation
- › a Fair and Just Tax System, Including Access to the Taxpayer Advocate Service

Know Your Rights.

Publication 1 (Rev. 10-2000) Catalog Number 5000000
Department of the Treasury Internal Revenue Service www.irs.gov




TAXPAYER
ADVOCATE
SERVICE
YOUR VOICE AT THE IRS

TEN TAXPAYER RIGHTS

- 1 THE RIGHT TO BE INFORMED**
Taxpayers have the right to know what they need to do to comply with tax laws. They are entitled to clear explanations of the law 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.
- 2 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 have a way to file complaints about inadequate service.
- 3 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 and to have the IRS apply all tax payments properly.
- 4 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 IRS actions or proposed actions, to expect that the IRS will consider their objections and documentation promptly and impartially, and to receive a written response if the IRS finds them insufficient.
- 5 THE RIGHT TO APPEAL AN IRS DECISION IN AN INDEPENDENT FORUM**
Taxpayers are entitled to a prompt and impartial administrative appeal of IRS actions and have the right to receive a written response explaining the Appeals Division's decision. Taxpayers generally have the right to take their cases to court to challenge an adverse final determination.
- 6 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. Taxpayers have the right to know when the IRS has finished an audit.
- 7 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 a collection due process hearing where applicable.
- 8 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 the IRS to investigate and take appropriate action against its employees, return preparers, and others who wrongfully use or disclose taxpayer return information.
- 9 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 be told that if they cannot afford to hire a representative they may be eligible for assistance from a Low Income Taxpayer Clinic.
- 10 THE RIGHT TO A FAIR AND JUST TAX SYSTEM, INCLUDING ACCESS TO THE TAXPAYER ADVOCATE SERVICE**
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.

FIVE TAXPAYER RESPONSIBILITIES

- 1 THE RESPONSIBILITY TO BE HONEST**
Taxpayers have the responsibility to report their income, deductions, and credits accurately according to the law; to answer all questions completely, accurately, and honestly; and to explain all relevant facts and circumstances when seeking guidance from the IRS.
- 2 THE RESPONSIBILITY TO PROVIDE ACCURATE INFORMATION**
Taxpayers have the responsibility to answer all relevant questions completely and honestly; to provide all required information on a timely basis, and to explain all relevant facts and circumstances when seeking guidance from the IRS.
- 3 THE RESPONSIBILITY TO KEEP RECORDS**
Taxpayers have the responsibility to maintain adequate books and records to fulfill their tax obligations, preserve them during the time they may be subject to IRS inspection, and provide the IRS with access to those books and records when asked so the IRS can examine their tax liabilities to the extent required by law.
- 4 THE RESPONSIBILITY TO PAY TAXES ON TIME**
Taxpayers have the responsibility to pay the full amount of taxes they owe by the due date and to pay any legally correct additional assessments in full. If they cannot pay in full, they have the responsibility to comply with all terms of any full or partial payment plans the IRS agrees to accept.
- 5 THE RESPONSIBILITY TO BE COURTEOUS**
Taxpayers have the responsibility to treat IRS personnel politely and with respect.

New color version of Pub 1 (black and white edition also available). 11"x17", half fold to 8.5"x11". Will allow for single letter page inserts for future Pub 1(a), (c), and (e).

TAXPAYER BILL OF RIGHTS

THE RIGHT TO...

- ▶ Be Informed
- ▶ Quality Service
- ▶ Challenge the IRS's Position and Be Heard
- ▶ Pay No More than the Correct Amount of Tax
- ▶ Appeal an IRS Decision in an Independent Forum
- ▶ Finality
- ▶ Privacy
- ▶ Confidentiality
- ▶ Retain Representation
- ▶ a Fair and Just Tax System,
Including Access to the
Taxpayer Advocate Service

KNOW YOUR RIGHTS

TAXPAYER
ADVOCATE
SERVICE

YOUR VOICE AT THE IRS



Publication XX (Rev. xx-xxxx) Catalog Number xxxxxxxx
Department of the Treasury Internal Revenue Service www.irs.gov

SPACE FOR
BROCHURE
HOLDER

4"

Poster with brochure holder. Poster measures 11"x17", will have a 4" wide plastic holder on the front to accommodate a tri-fold brochure (open 8.5"x11", folded 8.5"x3.6"). Will be placed in TAC, LITC, and TAS Advocate offices.

**THE TAXPAYER ADVOCATE SERVICE
IS HERE TO HELP YOU**

What is the Taxpayer Advocate Service?
The Taxpayer Advocate Service (TAS) is your voice at the IRS. Our job is to ensure that every taxpayer is treated fairly and that you know and understand your rights.

What can TAS do for you?
We can offer you free help with IRS problems that you can't resolve on your own. We know this process can be confusing, but the worst thing you can do is nothing at all. TAS can help if you can't resolve your tax problem and:

- Your problem is causing financial difficulties for you, your family, or your business.
- You face (or your business is facing) an immediate threat of adverse action.
- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

If you qualify for our help, you'll be assigned to one advocate who'll be with you at every turn and will do everything possible to resolve your problem. Here's why we can help:

- TAS is an independent organization within the IRS. Our advocates know how to work with the IRS.
- Our services are free and tailored to meet your needs.
- We have offices in every state, the District of Columbia, and Puerto Rico.

How can you reach us?
TAS has advocate offices in every state. If you think TAS can help you, contact your local advocate.

Find your local TAS office:
www.irs.gov/advocate, or
call us toll-free at 1-877-777-4778.



YOUR VOICE AT THE IRS

Publication xx (Rev. xx-xxxx) Catalog Number xxxxxxx
Department of the Treasury Internal Revenue Service
www.irs.gov

**TAXPAYER
BILL
OF
RIGHTS**

THE RIGHT TO....

- › Be Informed
- › Quality Service
- › Pay No More than the Correct Amount of Tax
- › Challenge the IRS's Position and Be Heard
- › Appeal an IRS Decision in an Independent Forum
- › Finality
- › Privacy
- › Confidentiality
- › Retain Representation
- › a Fair and Just Tax System, Including Access to the Taxpayer Advocate Service

KNOW YOUR RIGHTS



TEN TAXPAYER RIGHTS

- 1 THE RIGHT TO BE INFORMED**
Taxpayers have the right to know what they need to do to comply with tax laws. They are entitled to clear explanations of the law 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.
- 2 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 have a way to file complaints about inadequate service.
- 3 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 and to have the IRS apply all tax payments properly.
- 4 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 IRS actions or proposed actions, to expect that the IRS will consider their objections and documentation promptly and impartially, and to receive a written response if the IRS finds them insufficient.
- 5 THE RIGHT TO APPEAL AN IRS DECISION IN AN INDEPENDENT FORUM**
Taxpayers are entitled to a prompt and impartial administrative appeal of IRS actions and have the right to receive a written response explaining the Appeals Division's decision. Taxpayers generally have the right to take their cases to court to challenge an adverse final determination.

- 6 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. Taxpayers have the right to know when the IRS has finished an audit.
- 7 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 a collection due process hearing where applicable.
- 8 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 the IRS to investigate and take appropriate action against its employees, return preparers, and others who wrongfully use or disclose taxpayer return information.
- 9 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 be told that if they cannot afford to hire a representative they may be eligible for assistance from a Low Income Taxpayer Clinic.
- 10 THE RIGHT TO A FAIR AND JUST TAX SYSTEM, INCLUDING ACCESS TO THE TAXPAYER ADVOCATE SERVICE**
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.

FIVE TAXPAYER RESPONSIBILITIES

- 1 THE RESPONSIBILITY TO BE HONEST**
Taxpayers have the responsibility to be truthful in preparing their tax returns and in all other dealings with the IRS.
- 2 THE RESPONSIBILITY TO PROVIDE ACCURATE INFORMATION**
Taxpayers have the responsibility to answer all relevant questions completely and honestly, to provide all required information on a timely basis, and to explain all relevant facts and circumstances when seeking guidance from the IRS.
- 3 THE RESPONSIBILITY TO KEEP RECORDS**
Taxpayers have the responsibility to maintain adequate books and records to fulfill their tax obligations, preserve them during the time they may be subject to IRS inspection, and provide the IRS with access to those books and records when asked so the IRS can examine their tax liabilities to the extent required by law.
- 4 THE RESPONSIBILITY TO PAY TAXES ON TIME**
Taxpayers have the responsibility to pay the full amount of taxes they owe by the due date and to pay any legally correct additional assessments in full. If they cannot pay in full, they have the responsibility to comply with all terms of any full or partial payment plans the IRS agrees to accept.
- 5 THE RESPONSIBILITY TO BE COURTEOUS**
Taxpayers have the responsibility to treat IRS personnel politely and with respect.

Trifold brochure. Intended for inclusion with poster with brochure holder. Open 8.5"x11", folded 8.5"x3.6".

TAXPAYER BILL OF RIGHTS

A FRAMEWORK FOR EFFECTIVE TAX ADMINISTRATION

TAXPAYERS HAVE THE RIGHT TO...

- ▶ Be Informed
- ▶ Quality Service
- ▶ Pay No More than the Correct Amount of Tax
- ▶ Challenge the IRS's Position and Be Heard
- ▶ Appeal an IRS Decision in an Independent Forum
- ▶ Finality
- ▶ Privacy
- ▶ Confidentiality
- ▶ Retain Representation
- ▶ a Fair and Just Tax System, Including Access to the Taxpayer Advocate Service

Publication XX (Rev. xx-xxxx) Catalog Number xxxxxxx
Department of the Treasury Internal Revenue Service www.irs.gov



IRS employee cubicle Flyer. 8.5"x11" piece to be included in each employee cubicle.

TAXPAYER BILL OF RIGHTS

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TAXPAYER
ADVOCATE
SERVICE

YOUR VOICE AT THE IRS



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Department of the Treasury Internal Revenue Service www.irs.gov

IRS employee poster. 11"x17" poster to be placed in common areas of IRS offices.

C. Appendix C, Taxpayer Rights by Code Section

TAXPAYER BILL OF RIGHTS

Note: The references below are not all-inclusive

TAXPAYER RIGHTS

1. The Right to be Informed

- IRC § 6402(l): Explanation of reason for refund disallowance.
- IRC § 6751: Notice of penalty must include explanation of the computation.
- IRC § 7521: Explanation of the audit and collection processes and the taxpayer's rights.
- IRC § 7522: Content of tax due notice, deficiency notice, and other notices.
- RRA 98 § 3501: Explanation of joint and several liability.
- RRA 98 § 3503: IRS to include in Publication 1 the criteria and procedures for selecting taxpayers for examination.
- RRA 98 § 3504: Explanations of examination and collection processes included with any first letter of proposed deficiency (Publications 5, 556, and 594).
- RRA 98 § 3506 and Treas. Reg. § 301.6159-1(h): Annual statement of installment agreement initial balance, payments made during the year, and remaining balance at year-end.
- Publication 1: Explanation of rights as a taxpayer.
- Publication 5: Explanation of the appeals process.
- Publication 556: Explanation of the examination process.
- Publication 594: Explanation of the collection process.
- FOIA and e-FOIA, and requirement of disclosure of instructions to staff (Internal Revenue Manual).

2. The Right to be Assisted

- IRS Mission Statement: Provide America's taxpayers top quality service by helping them to understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.
- IRC § 6212: Notice of deficiency to include notice of the taxpayer's right to contact a local Office of the Taxpayer Advocate.
- IRC § 6304: The right to fair collection practices.
- IRC § 7526: Low income taxpayer clinics.
- IRC § 7803(c): Office of the Taxpayer Advocate.
- IRC § 7811: Taxpayer assistance orders.

- RRA '98 § 3705: IRS correspondence must include name, phone number, and unique identifying number of an IRS employee that the taxpayer may contact with respect to that correspondence.
- RRA 98 § 3709: Listing of IRS local telephone numbers and addresses in telephone book for area.

3. The Right to be Heard

- IRC § 6213(b): Mathematical and clerical error summary assessment authority: taxpayer has 60 days after notice to challenge the assessment and request that deficiency procedures apply.
- IRC §§ 6320 and 6330: Collection due process hearings.

4. The Right to Pay the Correct Amount of Tax Due

- IRS Mission Statement: Provide America's taxpayers top quality service by helping them to understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.
- IRC § 6402: Administrative claim for refund.
- IRC § 6404(a): The Secretary may abate tax where excessive in amount, barred by the statute of limitations, or erroneously or illegally assessed.
- IRC § 6404(e): The Secretary may abate interest attributable to unreasonable errors or delays by the IRS.
- IRC § 7122: Offer in compromise based on doubt as to liability.
- IRC § 7524: Annual notice of tax delinquency.
- RRA '98 § 3506 and Treas. Reg. § 301.6159-1(h): Annual statement of installment agreement initial balance, payments made during the year, and remaining balance at year-end.

5. The Right to an Appeal (administrative and judicial)

- IRC § 6159(e): Independent administrative review of terminations of installment agreements.
- IRC § 6212: Statutory notice of deficiency.
- IRC § 6213: Petition to U.S. Tax Court.
- IRC §§ 6320 and 6330: Collection due process hearings before an independent and impartial Appeals officer.
- IRC § 7122(e): Independent administrative review and appeal of any rejection of a proposed offer in compromise or an installment agreement.
- IRC § 7123: Appeals dispute resolution procedures, including early referral, mediation, and arbitration.
- IRC § 7422: Refund suit.
- IRC §§ 7428 and 7476-7479: Declaratory judgments.
- IRC § 7429: Review of jeopardy levy or assessment.

- RRA '98 § 1001(a)(4): The Commissioner shall establish an independent and impartial Appeals function, including ex parte rules (Rev. Proc. 2012-18: Ex parte procedures).
- Statement of Procedural Rules § 601.103(b): Where taxpayer does not agree to Exam's proposed assessment, taxpayer is afforded appeal rights.
- Statement of Procedural Rules § 601.103(c)(1): Taxpayer is given the opportunity to request an Appeals conference.
- Statement of Procedural Rules § 601.106: Appeals functions.

6. The Right to Certainty

- IRC § 6213: Statutory notice of deficiency (assessment after expiration of statutory suspension and no petition to U.S. Tax Court filed).
- IRC § 6213(a): IRS must put actual date of deadline to file petition to U.S. Tax Court in statutory notice of deficiency.
- IRC § 6501: Limitations on assessment and collection (statute of limitations).
- IRC § 6502: Limitations on collection after assessment (statute of limitations).
- IRC § 6511: Limitations on claim for credit or refund (statute of limitations).
- IRC § 7121: Closing agreements.
- IRC § 7122: Offers in compromise.
- IRC § 7481: Finality of U.S. Tax Court decision.
- IRC § 7605(b): Restrictions on examination of taxpayer: no unnecessary exams or investigations and only one inspection for taxable year unless taxpayer requests it or after IRS investigates and notifies taxpayer in writing that the second exam is necessary.

7. The Right to Privacy (to be free from unreasonable searches and seizures)

- IRC §§ 6320 and 6330: Collection due process hearings.
- IRC § 6331: Levy and distraint rules.
- IRC § 6334: Property exempt from levy.
- IRC § 6335: Sale of seized property.
- IRC § 6340: Accounting of proceeds of sale of property.
- RRA '98 § 3421: Approval process for liens, levies, and seizures (managerial approval required in certain situations).

8. The Right to Confidentiality

- IRC § 6103: Confidentiality of taxpayer returns and tax return information.
- IRC §§ 6713 and 7216: Civil and criminal penalties for disclosure or use of tax return information by a tax return preparer.

- IRC § 7525: Confidentiality privilege for federally authorized tax practitioners (extending confidentiality to non-attorney Circular 230 practitioners in disputes before the IRS) to the extent common law attorney-client privilege applies.
- IRC § 7602(c): Third party contacts: The IRS must inform the taxpayer of intent to make third party contacts and provide list of contacts upon request.
- IRC § 7803(c)(4)(A)(iv): Discretion of local taxpayer advocate not to disclose to the IRS the fact that taxpayer has contacted the Taxpayer Advocate Service (TAS) or any information provided by the taxpayer to TAS.

9. The Right to Retain Representation

- IRC § 7430: Awarding of attorneys' fees and administrative/litigation costs.
- IRC § 7521(b)(2): An IRS officer or employee cannot require the taxpayer to attend an interview where represented by a power of attorney, unless pursuant to a summons.
- IRC § 7521(c): Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the IRS who is not disbarred or suspended from practice before the IRS may submit a written power of attorney to represent the taxpayer before the IRS.
- IRC § 7526: Low income taxpayer clinics.

10. The Right to a Fair and Just Tax System

- IRC § 6159: Installment agreements, including guaranteed installment agreements.
- IRC § 6404(a): The Secretary may abate tax where excessive in amount, barred by the statute of limitations, or erroneously or illegally assessed.
- IRC § 6404(e): Abatement of interest attributable to unreasonable errors or delays by the IRS.
- IRC § 6511(h): Tolling of the statute of limitations for refund claims during periods of taxpayer's financial disability due to a medically determinable impairment.
- Abatement of penalty for reasonable cause – *e.g.*, IRC § 6651 (failure to file/failure to pay penalties); IRC § 6656 (failure to deposit penalty); and IRC § 6694 (return preparer penalties).
- IRC § 7122: Offers in compromise.
- IRC § 7803(c): Office of the Taxpayer Advocate.
- IRC § 7811: Taxpayer assistance orders.

TAXPAYER OBLIGATIONS

1. The Obligation to be Honest

- IRC § 6065: Verification of returns: Any return, statement, declaration, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by written declaration made under penalties of perjury.
- IRC § 6663: Fraud penalty.
- IRC § 7203: Willful failure to file return, supply information, or pay tax (criminal violation - misdemeanor or felony: fine or imprisonment or both).
- IRC § 7206: Fraud and false statements (criminal penalty – felony: fine or imprisonment or both).
- IRC § 7207: Fraudulent returns, statements, or other documents (criminal violation: fine or imprisonment or both).
- 18 USC § 1001(a): Fine or imprisonment or both for any person who knowingly and willfully: (1) falsifies, conceals, or covers up a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing that it contains a materially false, fictitious, or fraudulent statement or entry.

2. The Obligation to be Cooperative

- IRC § 7491(a)(2)(B): Burden of proof: If a taxpayer is cooperative during a court proceeding (*i.e.*, maintained all records required under the Internal Revenue Code and cooperated with reasonable requests for witnesses, information, documents, meetings, and interviews), the burden of proof in any court proceeding shifts to the IRS with respect to any factual issue relevant to the proceeding.
- IRC § 7602: Cooperate with IRS requests and summonses for documents and testimony.

3. The Obligation to Provide Accurate Information and Documents on Time

- IRC § 6071: Time for filing returns and other documents.
- IRC § 6151: Time and place for paying tax shown on returns.
- IRC § 6651: Penalty for failure to file tax return or to pay tax.
- IRC § 6702: Penalty for submitting frivolous tax returns or making other frivolous submissions.
- IRC § 7203: Willful failure to file return, supply information, or pay tax (criminal violation – misdemeanor or felony: fine or imprisonment or both).
- IRC § 7602: Examination of books and witnesses, authority to issue summons for books, papers, records or other data, and authority to issue summons for a person to appear before the IRS.

4. The Obligation to Keep Records

- IRC § 274(d): Special substantiation required for entertainment, travel, meals and lodging, and listed property expenses.
- IRC § 6001: Notice or regulations requiring records, statements, and specific returns: “Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.”
- IRC § 7602: The Secretary is authorized to examine books and records.

5. The Responsibility to Pay Taxes on Time

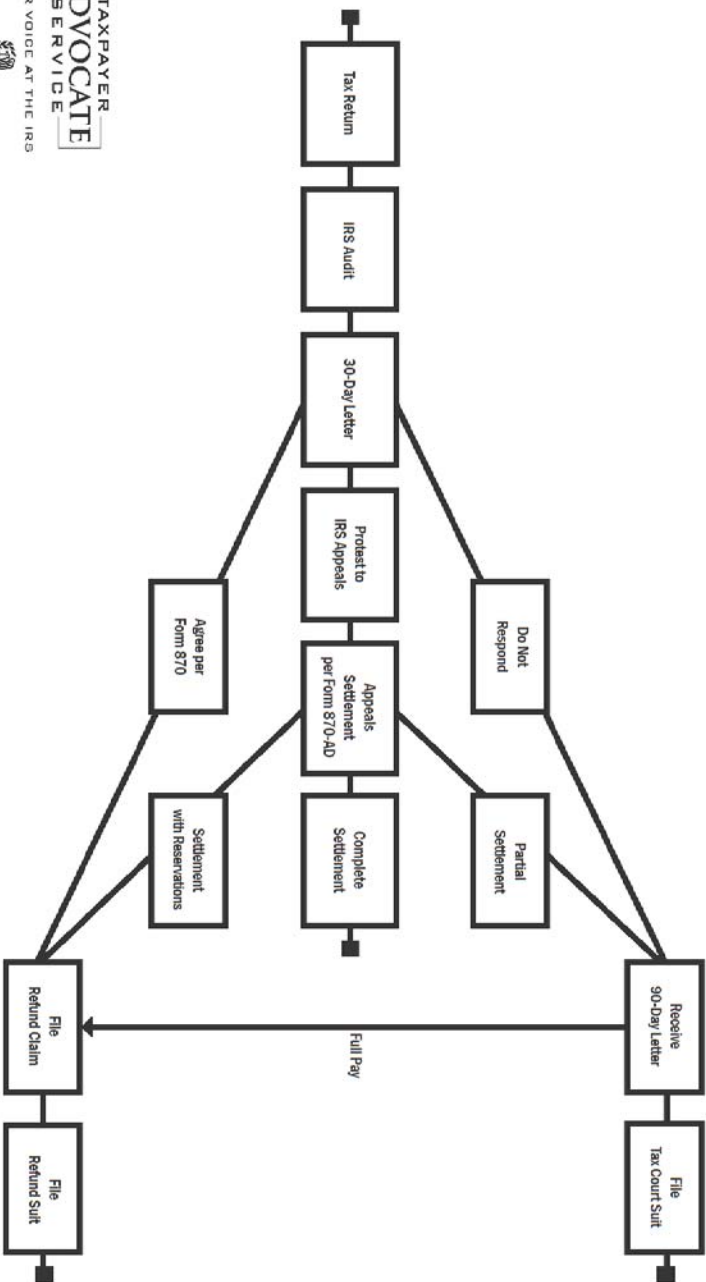
- IRC § 6151: Time and place for paying tax shown on returns.
- IRC § 6155: Payment on notice and demand.
- IRC § 6651(a)(2): Penalty for failure to pay tax.
- IRC §§ 6654 and 6655: Penalty for failure to pay estimated income tax.
- IRC § 6656: Penalty for failure to make deposits of tax.
- IRC § 6672: Penalty for failure to collect and pay over tax, or attempt to evade or defeat tax (known as the trust fund recovery penalty).

D. Appendix C, IRS.gov Homepage Mockup Displaying Taxpayer Rights

The mockup displays the IRS.gov homepage layout. At the top left is the IRS logo. To its right are navigation links: Subscriptions, Language (with a dropdown menu), and Information For... (with a dropdown menu). Below these is a search bar and a list of languages: Español, 中文, 한국어, TiếngViệt, and Русский. A horizontal menu contains: Filing, Payments, Refunds, Credits & Deductions, News & Events, Forms & Pubs, and Information for Tax Pros. Below the menu are four main action buttons: 'File Your Form 2290' (with a man's image), 'Get Your Refund Status' (with a woman's image), 'Pay Your Tax Bill' (with a man's image), and 'Know Your Rights as a Taxpayer'. Below these are three columns of content: 'Forms and Pubs' (listing forms like 1040, 2290, 941, SS-4, 4506-T, 1040EZ, 2848, Pub 15, W-4, W-9, and a 'More ...' link), 'Hot Topics' (listing 'Free File: File your return for free', 'About Your 1099-K', 'Pay Your Tax Bill', 'Earned Income Tax Credit', 'Affordable Care Act Tax Provisions', and a 'More ...' link), and 'Tools' (listing 'Request an Electronic Filing PIN', 'Order a Return or Account Transcript', 'Use the Interactive Tax Assistant', 'Apply for an EIN Online', 'First Time Homebuyer Credit Look-up', and a 'More ...' link). On the right side, there is a 'Filing & Payment' section with logos for 'where's my refund?', 'freefile', 'e-file', and 'EFTPS'.

E. Appendix D, Roadmap to a Tax Controversy Posters

**Roadmap to a Tax Controversy:
Pre-Litigation Administrative Procedures**



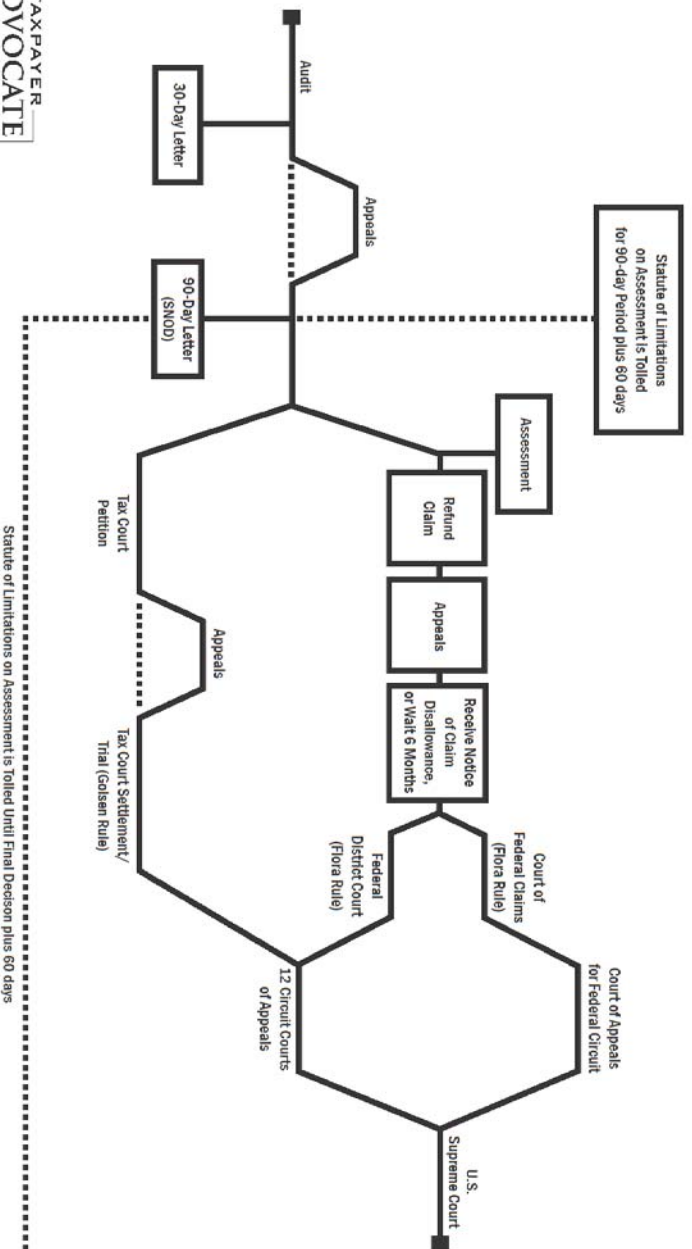
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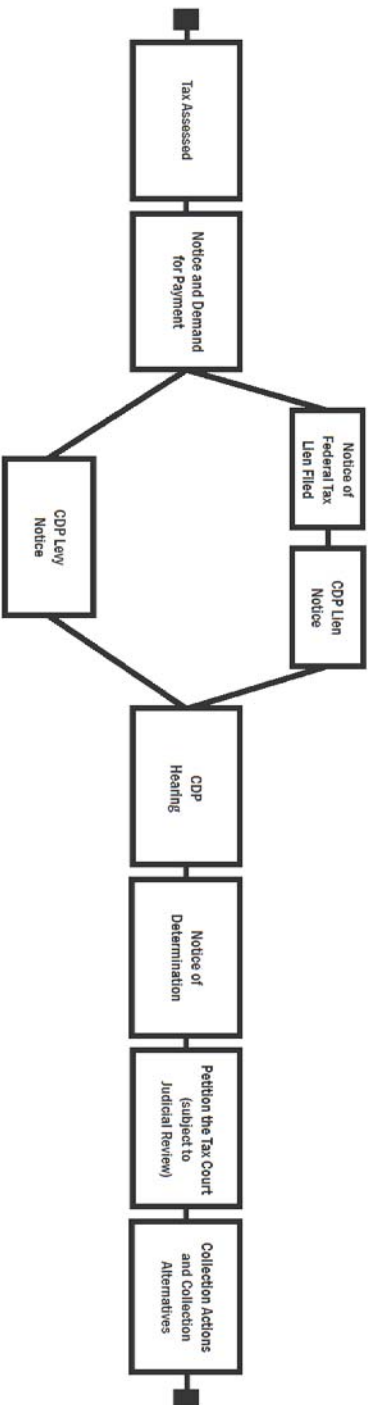
Publication 5122-A (Rev. 09-2013) Catalog Number 655375 Department of the Treasury Internal Revenue Service www.irs.gov

ROADMAP 2

Roadmap to a Tax Controversy: Litigation & Assessment



Roadmap to a Tax Controversy: Collection



Created by the Taxpayer Advocate Service
www.TaxpayerAdvocate.IRS.gov

Publication 5122 B (Rev. 09-2013) Catalog Number 65538D Department of the Treasury Internal Revenue Service www.irs.gov

ROADMAP 3

F. Appendix E, List of TAS Action Items

Action Item 1.1: Develop and maintain taxpayer rights and responsibilities web pages on IRS.gov. This would include prominently featuring taxpayer rights on the main landing page with links to a further series of pages explaining individual rights and responsibilities and illustrating how they apply in specific situations. These pages would incorporate or link to the forthcoming revised Publication 1, Your Rights as a Taxpayer, and expanded versions for Appeals, Examination, and Collection, discussed in the Publication 1 section below.

Action Item 1.2: Develop a series of short videos on specific taxpayer rights to include on the Taxpayer Rights TAS toolkit, with links available for IRS.gov pages.

Action Item 1.3: Conduct a more thorough audit of IRS.gov to determine the gaps in taxpayer rights communication, prioritize the critical gaps to be filled immediately, and develop a strategy for meeting additional needs.

Action Item 1.4: Develop taxpayer rights language for use by the BODs on their IRS.gov pages, including references to TAS and LITCs, as well as specific taxpayer rights and responsibilities, and links to the U.S. Tax Court website where appropriate.

Action Item 1.5: Survey taxpayers on a periodic basis to determine whether our outreach and education efforts have been successful, using the 2012 survey as a baseline.

Action Item 2.1: Draft a revised version of Publication 1 based on the results of past focus groups and surveys.

Action Item 2.2: Create a poster version of Publication 1 to be displayed in Low Income Taxpayer Clinics, Taxpayer Assistance Centers, local TAS offices, and all other taxpayer-facing offices.

Action Item 2.3: Create a bifold or trifold brochure version of Publication 1 to be placed in each office where taxpayers come for appointments, including Exam, Appeals, Collection, and local TAS offices.

Action Item 2.4: Create three new versions of Publication for exam (Publication 1-E), Appeals (Publication 1-A), and collection (Publication 1-C).

Action Item 2.5: Conduct focus groups regarding the drafts of Publication 1, Publication 1-E, Publication 1-A, and Publication 1-C.

Action Item 2.6: Conduct a comprehensive audit of IRM sections to identify instances where the IRS should provide either Publication 1 or one of the new versions of Publication 1.

Action Item 2.7: Provide the IRS with a list of any IRM sections that need immediate updates to require the IRS to distribute Publication 1 and develop a strategy for addressing less urgent updates.

Action Item 2.8: Identify taxpayer notices that should include Publication 1, Publication 1-E, Publication 1-A, or Publication 1-C as a stuffer.

Action Item 3.1: Conduct a comprehensive audit of all IRS employee training to analyze what training the IRS provides on taxpayer rights. Develop guidelines and examples for incorporating taxpayer rights into training and develop a stand-alone training module on taxpayer rights. Revise TAS Roadmap to a Tax Controversy training so it is appropriate for all IRS employees.

Action Item 4.1: Conduct comprehensive audit of all IRM sections, excluding administrative sections, to identify sections that require updates to add taxpayer rights information.

Action Item 4.2: Formulate language on taxpayer rights to be included in all IRM sections identified where further information on taxpayer rights would be helpful.

Action Item 5.1: Review case quality attributes of functions and recommend proposed changes to operating divisions and functions.

Action Item 5.2: Add a customer satisfaction survey question: “Did the Case Advocate help you understand your rights as a taxpayer?” and amend the TAS case quality attribute to say “educated/explained preventative actions and informed the taxpayer of all applicable rights.”

Action Item 6.1: Finalize poster version of taxpayer rights to be placed in IRS employee offices.

Action Item 7.1: Raise awareness of SAMS during internal outreach, create new PowerPoint slides informing employees how to submit issues on SAMS, and provide examples of issues that have been resolved, including general examples as well as examples customized to certain functional areas.

Action Item 7.2: Conduct an audit of IRS.gov to identify appropriate Internet pages on which information about making submissions to SAMS should be posted.

Action Item 8.1: Conduct a comprehensive audit of the IRM, letters, and notices to identify to identify appropriate places to include information about LITCs and the appropriate circumstances in which IRS employees should refer taxpayers to LITCs for representation.

G. Appendix F, List of Recommendations to Commissioner

Recommendation 1.1: Adopt the Taxpayer Bill of Rights, including ten fundamental taxpayer rights and five taxpayer responsibilities.

Recommendation 2.1: Place “Know Your Rights as a Taxpayer” in the far right banner of the homepage of IRS.gov, linking to the taxpayer rights page.

Recommendation 2.2: In collaboration with the National Taxpayer Advocate, populate the taxpayer rights page with links to a further series of pages explaining taxpayer rights and responsibilities as described in Action Item 1.1 above.

Recommendation 2.3: Place “Know Your Rights as a Taxpayer” at the top of the column labeled “Get Important Info” in the standard footer on every page of IRS.gov.

Recommendation 2.4: In collaboration with the National Taxpayer Advocate, include taxpayer rights language on BOD pages of IRS.gov, referencing TAS and LITCs, specific taxpayer rights and responsibilities, and links to the U.S. Tax Court where appropriate.

Recommendation 3.1: Require all TACs and customer-facing IRS offices to display the Publication 1 poster.

Recommendation 3.2: Require all IRS offices where taxpayers come in for appointments, including Exam, Appeals, Collection, and local TAS offices, to include a display of Publication 1 brochures for taxpayers to take.

Recommendation 3.3: Update all IRM sections identified by TAS to include requirements for employees to provide Publication 1, Publication 1-E, Publication 1-A, or Publication 1-C.

Recommendation 3.4: Update all notices identified by TAS to include Publication 1, Publication 1-E, Publication 1-A, or Publication 1-C as a stuffer.

Recommendation 4.1: Require all updates of training modules to include a significant segment on taxpayer rights, developed using TAS’s guidelines, or the independent

taxpayer rights training module developed by TAS. Require all IRS employees to take the (revised) Roadmap to a Tax Controversy Level One training.

Recommendation 5.1: Require updates of all IRM sections identified by TAS with language provided by TAS to incorporate taxpayer rights into the IRM.

Recommendation 6.1: Require all operating divisions to update their case quality attributes to measure, at a minimum:

- Whether the employee informed the taxpayer of all relevant appeal rights, including recourse to Tax Court and to LITCs;
- Whether the employee considered if the case qualifies for TAS assistance; and
- Whether the employee made an appropriate referral to TAS if the case qualified for TAS assistance.

Recommendation 6.2: Require all IRS operating divisions and functions when proposing initiatives, including budget initiatives, to include an analysis of the proposed operation in terms of the TBOR in their business case justifications.

Recommendation 6.3: Require all operating divisions to include in their BPRs an analysis of how employees were trained on taxpayer rights issues and what actions the operating divisions took to incorporate the TBOR into their programs.

Recommendation 6.4: Add to all customer satisfaction surveys given to taxpayers interacting with IRS employees: “Did the IRS employee help you understand your rights as a taxpayer?”

Recommendation 7.1: Require distribution of taxpayer rights posters to managers and require all employee offices to place the taxpayer rights poster in places where the maximum number of employees will see them, in the same way UNAX posters are posted.

Recommendation 7.2: Develop and deliver a servicewide information campaign that emphasizes the TBOR as a “framework for effective tax administration.”

Recommendation 8.1: Direct appropriate IRS personnel to add TAS-supplied text and links to TAS’s Systemic Advocacy Management System on intranet pages identified by TAS.

Recommendation 8.2: Embed information about, and a link to, the Systemic Advocacy Management System on appropriate IRS.gov pages recommended by the National Taxpayer Advocate for the purpose of informing taxpayers how they can report systemic problems for review by TAS.

Recommendation 8.3: Require IRS outreach personnel to include TAS in outreach events with practitioner groups to speak about Systemic Advocacy and SAMS. Alternatively, where TAS is not present, the IRS should include material about TAS and SAMS in its materials for practitioner outreach events.

Recommendation 9.1: Update all IRM sections specified by TAS where employees communicate directly with individual taxpayers to require employees to inform taxpayers about LITCs in appropriate circumstances.

Recommendation 9.2: Require Publication 4134 to be provided with the following notices where the IRS has discontinued it:

- CP 75, Exam Initial Contact Letter- EIC- Refund Frozen;
- CP 75A, Exam Initial Contact Letter- EIC- No Refund Frozen;
- CP 75C, EIC Recertification; and
- CP75D, Exam Initial Contact Letter- EIC- Entire Refund Frozen

Recommendation 9.3: Include Publication 4134 in notices and letters identified by TAS as a result of its audit.