



IRS Recognition of Taxpayer Rights Encourages Respect and Due Process

In 2014, the Internal Revenue Service (IRS) took a major step forward in formalizing its commitment to taxpayer rights by administratively adopting the Taxpayer Bill of Rights, a list of 10 rights based on specific principles that are modeled on the U.S. Constitution's Bill of Rights. The National Taxpayer Advocate has been pressing Congress for nearly a decade to enact a legislative framework embodying these concepts. Although the IRS does not provide enforcement mechanisms for the enumerated "rights," the IRS's statements may spur further congressional action to make these protections a permanent part of the tax code. Until that time, these principles provide taxpayers and their representatives with a basic framework when dealing with IRS personnel.

The IRS **Taxpayer Bill of Rights** establishes the following:

- 1. The Right to Be Informed**
 - The IRS must clearly explain the tax laws and IRS procedures so that taxpayers can comply; this includes prompt notification by the IRS of any actions taken with tax accounts and what they mean for taxpayers.
- 2. The Right to Quality Service**
 - The IRS must provide good customer service, including understandable communications; taxpayers should be able to elevate service issues to a supervisor.
- 3. The Right to Pay No More than the Correct Amount of Tax**
 - The IRS is obligated to ensure that taxpayers only pay the amount of tax legally due; this includes proper application of all payments by taxpayers.

4. **The Right to Challenge the IRS's Position and Be Heard**
 - The IRS must provide taxpayers with opportunities to object to unfavorable IRS actions by taking issues up the chain-of-command as well as allow taxpayers to present evidence supporting their case when appropriate; to the extent that the IRS disagrees, it must respond to taxpayers with a clear explanation.
5. **The Right to Appeal an IRS Decision in an Independent Forum**
 - The IRS must provide an opportunity for taxpayers to appeal administrative decisions to the Office of Appeals for a fair and impartial hearing.
6. **The Right to Finality**
 - The IRS must provide directions to taxpayers on the amount of time available to dispute an administration action, as well as the timeline for completion of an audit.
7. **The Right to Privacy**
 - The IRS must follow all laws in interacting with taxpayers, avoid intrusive examinations, and provide due process at all times.
8. **The Right to Confidentiality**
 - The IRS must treat all taxpayer information with appropriate confidentiality, and the government must take appropriate action when others (whether IRS employees or non-IRS third parties) wrongfully use such information.
9. **The Right to Retain Representation**
 - The IRS must allow taxpayers to be represented by an authorized representative of their own choosing. Taxpayers with limited financial mean have the right to obtain assistance from a Low Income Taxpayer Clinic.
10. **The Right to a Fair and Just Tax System**
 - The IRS must consider all relevant facts and circumstances surrounding a taxpayer's liability, including ability to pay. Taxpayers experiencing mistreatment by the IRS or with financial difficulties are entitled to seek assistance from the Taxpayer Advocate Service.

To date, the IRS has issued fact-sheets explaining four of the rights in more depth. We expect the IRS to continue issuing detailed statements on all 10 rights over time. The IRS has elaborated on the first four rights as follows:

The Right to Be Informed. Any notices from the IRS must clearly state the amount of any tax, interest, and penalties owing with an explanation supporting the asserted liability. If the IRS denies a refund claim, it must explain the specific reasons why. Any time an assessment is proposed, the IRS must provide an initial letter explaining the entire applicable administrative process and explain a taxpayer's options for seeking review by the Office of Appeals or the Taxpayer Advocate Service.

The Right to Quality Service. Any IRS employee who interacts with a taxpayer is expected to provide professional assistance, which entails objective listening, prompt and thorough answers, and consideration of all the facts. This may require an employee to provide contact information for follow-up

correspondence. A taxpayer may seek to elevate an issue to a supervisor if there is a problem with an employee. If engaged in collection activities, the IRS must be courteous and not employ harsh or demeaning tactics (such as contact at a place of business).

The Right to Pay No More than the Correct Amount of Tax. Mistakes sometimes occur, and a taxpayer should promptly notify the appropriate IRS office of a perceived error. The IRS has an obligation to investigate, although the taxpayer should be prepared to provide any supporting documents required. A taxpayer can submit an offer in compromise if they believe part of a tax debt is not actually owed. If the taxpayer has overpaid his or her tax liability, a timely claim for refund can be filed.

The Right to Challenge the IRS's Position and Be Heard. A taxpayer is allowed 60 days to object and respond to assertions by the IRS of a math or clerical error on a tax return. If the IRS moves forward with its proposed assessment, the mailing of a notice of deficiency gives the taxpayer 90 days to file a petition in Tax Court challenging the action. If an IRS collection action involves a lien or levy, the IRS must provide timely notice to the taxpayer and provide a hearing before the Office of Appeals (and the opportunity to go to Tax Court if Appeals makes an adverse determination).

The Right to Appeal an IRS Decision in an Independent Forum. The IRS is obligated to maintain a separate Office of Appeals that is independent from the rest of the organization in order to provide a fresh look at a taxpayer's case. Appeals cannot communicate with IRS examiners in a manner that would compromise its independence.

Taxpayers also have the right to appeal their case within the judicial system. Certain IRS notices asserting additional tax due can be appealed to the United States Tax Court before the tax is paid. Where the taxpayer has already fully paid the tax and a refund claim is denied by the IRS (or if the IRS takes no action after six months), the taxpayer might be entitled to file a refund suit in federal court within certain time limits.

Taxpayer Awareness. Tax professionals are familiar with these taxpayer rights and can help taxpayers navigate the IRS administrative process to ensure that all rights are duly respected. Dealing with the IRS on one's own can involve frustration and costly missteps if a taxpayer is not aware of how to handle problems when they arise and to push for responses within their rights.

This *GT Alert* was prepared by **Jeremiah Coder** and **Barbara T. Kaplan**. Questions about this information can be directed to:

- [Jeremiah Coder](mailto:coderj@gtlaw.com) | +1 415.655.1278 | coderj@gtlaw.com
- [Barbara T. Kaplan](mailto:kaplanb@gtlaw.com) | +1 212.801.9250 | kaplanb@gtlaw.com

Albany +1 518.689.1400	Denver +1 303.572.6500	New York +1 212.801.9200	Shanghai +86 (0) 21 6391 6633
Amsterdam +31 (0) 20 301 7300	Fort Lauderdale +1 954.765.0500	Northern Virginia +1 703.749.1300	Silicon Valley +1 650.328.8500
Atlanta +1 678.553.2100	Houston +1 713.374.3500	Orange County +1 949.732.6500	Tallahassee +1 850.222.6891
Austin +1 512.320.7200	Las Vegas +1 702.792.3773	Orlando +1 407.420.1000	Tampa +1 813.318.5700
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Boston +1 617.310.6000	Los Angeles +1 310.586.7700	Phoenix +1 602.445.8000	Tokyo[‡] +81 (0)3 3216 7211
Chicago +1 312.456.8400	Mexico City⁺ +52 (1) 55 5029 0000	Sacramento +1 916.442.1111	Warsaw[~] +48 22 690 6100
Dallas +1 214.665.3600	Miami +1 305.579.0500	San Francisco +1 415.655.1300	Washington, D.C. +1 202.331.3100
Delaware +1 302.661.7000	New Jersey +1 973.360.7900	Seoul[∞] +82 (0) 2 369 1000	Westchester County +1 914.286.2900
			West Palm Beach +1 561.650.7900

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