

Appendix 1: TAXPAYER BILL OF RIGHTS

National Taxpayer Advocate Partial Analysis of Subordinate Rights and Obligations

TAXPAYER RIGHTS

1. The Right to be Informed

- a. IRC § 7521(b)(1): Publication 1: Explanation of rights as taxpayer.
- b. RRA 98, Publication 5: Explanation of Appeals process, and Publication 594: Explanation of the IRS Collection process.
- c. IRC § 7522: Content of tax due, deficiency, and other notices.
- d. IRC § 6751: Notice of penalty must include explanation of the computation.
- e. FOIA and e-FOIA, and requirement of disclosure of instructions to staff (Internal Revenue Manual).
- f. All Code sections that require Secretary to issue guidance.
- g. IRC § 6110: Public inspection of written determinations, including Chief Counsel advice.
- h. RRA 98 § 3501: Explanation of joint and several liability.
- i. RRA 98 § 3506 and Prop. Treas. Reg. § 301.6159-1(h): Annual statement of installment agreement balance and payments made during the year.
- j. IRC § 6402(k): Statement of reason for refund disallowance.

2. The Right to be Assisted

- a. RRA 98 § 1002: The IRS shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.
- b. 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.
- c. 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.
- d. RRA 98 § 3709: Listing of IRS local telephone numbers and addresses in telephone book for area.

3. The Right to be Heard

- a. IRC § 7521(b)(1): Rights under audit process.
- b. IRM 4.10.8.1.1: Audit reports should contain all information necessary to ensure clear understanding of the adjustments and document how tax liability was computed.
- c. IRC § 6402(k): Statement of reason for refund disallowance. See S. Rep. No. 105-174, at 97: “The Committee believes that taxpayers are entitled to an explanation of the reason for the disallowance or partial disallowance of a refund claim so that the taxpayer may appropriately respond to the IRS.”
- d. IRC § 6213(b): Math and clerical error summary assessment authority: taxpayer has 60 days after notice to challenge the assessment and request that deficiency procedures apply.
- e. IRC § 7522: Content of tax due, deficiency, and other notices.

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

- a. 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.
- b. “Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury.” *Helvering v. Gregory*, 69 F.2d 809, 810 (2d Cir. 1934) (citations omitted), *aff’d*, 293 U.S. 465 (1935).
- c. IRC § 6404(a): The Secretary may abate tax where excessive in amount, barred by statutes of limitations, or erroneously or illegally assessed.
- d. IRC § 7122: Offer in compromise based on doubt as to liability.
- e. IRC § 6015: Relief from joint and several liability.
- f. IRC § 6402: Administrative claim for refund (amended return or other claim).
- g. IRC § 7524: Annual notice of tax delinquency.
- h. RRA 98 § 3506 and Prop. Treas. Reg. § 301.6159-1(h): Annual statement of installment agreement balance and payments made during the year.

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

- a. IRC § 7123: Appeals dispute resolution procedures, including early referral, mediation, and arbitration.
- b. RRA 98 § 1001(a)(4): The Commissioner shall establish an independent and impartial Appeals function, including ex parte rules.
- c. Rev. Proc. 2000-43: Ex parte rules.

- d. Treas. Reg. § 601.106: Appeals functions.
 - e. Treas. Reg. § 601.103(b): Where taxpayer does not agree to Exam's proposed assessment, taxpayer is afforded appeal rights.
 - f. Treas. Reg. § 601.103(c)(1): Taxpayer is given the opportunity to request an Appeals conference.
 - g. IRC §§ 6330 & 6320: Collection due process hearings before an independent and impartial Appeals officer.
 - h. IRC § 7122(e): Independent administrative review before rejection of offer in compromise or an installment agreement, and appeal from rejection of offer in compromise or installment agreement.
 - i. IRC § 6159(e): Independent administrative review of terminations of installment agreements.
 - j. IRC § 6212: Statutory notice of deficiency.
 - k. IRC § 6213: Petition to U.S. Tax Court.
 - l. IRC § 7428: Declaratory judgment for IRC § 501(c)(3) organizations.
 - m. IRC § 7422: Refund suit.
- 6. The Right to Certainty**
- a. IRC § 7481: Finality of U.S. Tax Court decision.
 - b. IRC § 6501: Limitations on assessment and collection (statute of limitations).
 - c. IRC § 6502: Limitations on collection after assessment.
 - d. IRC § 6511: Limitations on claim for credit or refund (statute of limitations).
 - e. IRC § 6213: Statutory notice of deficiency (assessment after expiration of 90 days and no petition to U.S. Tax Court filed).
 - f. IRC § 6213(a): IRS must put actual date of deadline to file petition to U.S. Tax Court in statutory notice of deficiency.
 - g. IRC § 7605(b): Restrictions on examination of taxpayer: no unnecessary exams or meetings 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)**
- a. IRC § 6331: Levy and distraint rules.
 - b. IRC § 6331(j): Procedures for administrative seizures of property.
 - c. RRA 98 § 3421: Managerial approval of continuous levies.
 - d. IRC § 6340: Accounting of proceeds of sale of property.

- e. IRC § 6334: Property exempt from levy.
- f. IRC § 6335: Sale of seized property.
- g. IRC §§ 6330 & 6320: Collection due process hearings (hearing before first levy with respect to tax; hearing after filing of notice of federal tax lien).

8. The Right to Confidentiality

- a. IRC § 6103: Confidentiality of taxpayer returns and tax return information.
- b. IRC §§ 7216 & 6713: Criminal and civil penalties for disclosure or use of tax return information by return preparer.
- c. 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.
- d. IRC § 7602(c): Third party contacts: IRS must inform the taxpayer of intent to make third party contacts and provide list of contacts upon request.
- e. 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.

7. The Right to Representation

- a. 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.
- b. IRC § 7521: 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.
- c. IRC § 7526: Low Income Taxpayer Clinics.
- d. IRC § 7430: Awarding of attorneys fees and administrative/litigation costs.

8. The Right to a Fair and Just Tax System

- a. IRC § 6404(a): The Secretary may abate tax where excessive in amount, barred by statutes of limitations or erroneously or illegally assessed.
- b. IRC § 6404(e): Abatement of interest attributable to unreasonable errors or delays by the IRS.
- c. Abatement of penalty for reasonable cause — *e.g.*, IRC § 6651 (failure to pay/failure to file penalties); IRC § 6656 (failure to deposit penalty); and IRC § 6694 (return preparer penalties).

- d. IRC § 7122: Offers in compromise based on doubt as to collectibility, doubt as to liability, economic hardship, equity, and public policy.
- e. IRC § 6159: Installment agreements, including guaranteed installment agreements.
- f. IRC §§ 7803 & 7811: Office of the Taxpayer Advocate, National Taxpayer Advocate, and Taxpayer Assistance Orders.
- g. IRC § 6511(h): Tolling of the statute of limitations for refund claims during periods of taxpayer's incapacity.

TAXPAYER OBLIGATIONS

1. The Obligation to be Honest

- a. 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.
- b. IRC § 6663: Fraud penalty.
- c. IRC § 7206: Fraud and false statements (criminal penalty — felony: fine or imprisonment or both).
- d. IRC § 7207: Fraudulent returns, statements, or other documents (criminal penalty — fine or imprisonment or both).
- e. IRC § 7203: Willful failure to file return, supply information, or pay tax (criminal penalty — misdemeanor or felony: fine or imprisonment or both).

2. The Obligation to be Cooperative

- a. IRC § 7203: Willful failure to file return, supply information, or pay tax (criminal penalty — misdemeanor or felony: fine or imprisonment or both).
- b. 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, etc.), the burden of proof shifts to the IRS with respect to any factual issue relevant to the proceeding.

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

- a. IRC § 6071: Time for filing returns and other documents.
- b. IRC § 6651(a)(1): Penalty for failure to file tax return.
- c. IRC § 7203: Willful failure to file return, supply information, or pay tax (criminal penalty — misdemeanor or felony: fine or imprisonment or both).

- d. IRC § 7602: Examination of books and witnesses (criminal penalty — misdemeanor or felony: fine or imprisonment or both): 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

- a. 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.”
- b. IRC § 274(d): Special substantiation required for entertainment, travel, meals and lodging, and listed property expenses.

5. The Obligation to Pay Taxes on Time

- a. IRC § 6651(a)(2): Penalty for failure to pay tax.
- b. IRC § 6656: Penalty for failure to make deposits of tax.
- c. IRC § 6654: Penalty for failure by individual to pay estimated income tax.
- d. 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 (TFRP)).