

Fact Sheet

H.R. 5716 - The Taxpayer Bill of Rights Act of 2008 (Becerra)

The Taxpayer Bill of Rights Act of 2008 contains a variety of provisions aimed at improving services for taxpayers, particularly those with low or moderate incomes. In particular, it would protect taxpayers from tax return preparers and lenders of refund anticipation loans (RALs) who act unscrupulously. The bill also would clarify taxpayer rights and obligations, establish a grant program for free tax preparation and representation clinics, and help provide access to financial institutions for low-income taxpayers without a bank account.

Specifically, the Taxpayer Bill of Rights Act of 2008 would:

- **Clarify a Taxpayer Bill of Rights.** There is no single easily-accessible location for taxpayers to read and understand their rights. The Taxpayer Bill of Rights Act would require the Treasury Department to publish a Taxpayer Bill of Rights in an easy-to-understand document which states each right and obligation and lists its corresponding location, while also providing this list in a single location within the Tax Code itself. This provision would not confer any rights or obligations not otherwise provided for.

Taxpayer rights include:

- Right to be informed (including adequate legal and procedural guidance and information about taxpayer rights);
- Right to be assisted;
- Right to be heard;
- Right to pay no more than the correct amount of tax;
- Right of appeal (administrative and judicial);
- Right to certainty (including guidance, periods of limitation, no second exam, and closing agreements);
- Right to privacy (including due process considerations, least intrusive enforcement action, and search and seizure protections);
- Right to confidentiality;
- Right to appoint a representative in matters before the IRS;
- Right to fair and just tax system

Taxpayer obligations include:

- Obligation to be honest;
- Obligation to be cooperative;
- Obligation to provide accurate information and documents on time;
- Obligation to keep records;
- Obligation to pay taxes on time

- **Regulate Compensated Tax Return Preparers.** The federal government does not currently regulate unenrolled tax return preparers (Unenrolled return preparers are return preparers who are not certified public accountants, attorneys, enrolled agents, or enrolled actuaries currently regulated under IRS Circular 230). While a significant percentage of unenrolled preparers are well trained and maintain high ethical standards, untrained and unscrupulous tax return preparers present a significant problem to the process of tax collection and inflict serious harm to taxpayers. Many taxpayers, tax professionals and the National Taxpayer Advocate have been calling for federal regulation of paid tax return preparers for years.

The Taxpayer Bill of Rights Act of 2008 would respond to these concerns by establishing a regulatory system for unenrolled preparers. In order for a tax preparer to become registered and authorized by the Treasury Department, they must first pass a basic background check and an examination of competency and knowledge of ethics. To remain in good standing, these preparers are required to satisfy continuing education requirements or to be re-examined every three years on changes in tax law and common preparation mistakes. Tax preparers regulated under Circular 230 are exempt from the regulation provided for under this bill. Treasury would be required to maintain and publish for taxpayers a comprehensive list of all authorized tax return preparers, including Circular 230 preparers.

- **Monitor Refund Anticipation Loans.** This bill would require the Treasury Department to set up a registration program for all those involved in the process of facilitating a refund anticipation loan (RAL). The bill would outline information that must be disclosed in writing and in an easily understandable format to a taxpayer applying for a RAL, including the taxpayer's options for receiving tax refunds from least expensive to most expensive, the RAL loan terms and fee schedule, and any other costs that may incur.
- **Fund Volunteer Income Tax Assistance (VITA) Programs.** The bill would create a \$10 million grant program for volunteer income tax assistance programs which provide free tax return preparation services to low-income taxpayers. Last year, for the first time, the IRS was appropriated \$8 million to administer the VITA program through FY 2009. The bill would authorize an annual appropriation of \$10 million.
- **Authorize Referrals and Funding for Low-Income Taxpayer Clinics (LITCs).** The bill would authorize the Secretary of the Treasury to refer taxpayers to Low-Income Taxpayer Clinics. In addition, the bill would authorize an increase in funding to LITCs from \$6 million to \$10 million.
- **Enhance Access to Financial Institutions.** The legislation would authorize a demonstration grant program to link tax preparation services with the establishment of a bank account. The program would provide grants to eligible entities, including 501(c)(3) organizations, labor unions and CDFIs, to provide low- or no-cost accounts to individuals who currently do not have an account with a financial institution.

These accounts would allow taxpayers to have their refund checks directly deposited into their newly established accounts, which will enable taxpayers to obtain their refunds faster than waiting for a paper check but without the fees associated with refund anticipation loans. Having an account at a credit union or bank would also provide opportunities to utilize mainstream financial services and would offer alternatives to high-cost check cashing services and other fringe banking products.

- **Improve Taxpayer Services.** The bill also would make it a Sense of Congress that IRS:
 - reduce the time between receipt of the return and remitting a refund;
 - provide free filing and preparation to low-income taxpayers;
 - expand assistance to low income taxpayers;
 - allocate resources to assist low-income taxpayers in establishing accounts at financial institutions that receive direct deposits from Treasury; and
 - establish a pilot program for mobile tax return preparation offices in lower income communities, at least one of which would be near or on a Native American reservation.
- **Study the Delivery of Refunds using Debit Cards.** This study would investigate the payment opportunities of delivering tax refunds on debit cards from a bank authorized by Treasury to those taxpayers without bank accounts (in a manner similar to the current Social Security debit card program). Obtaining a bank card is a critical first step to connecting unbanked taxpayers to traditional financial institutions.