

The Taxpayer Bill of Rights Act of 2010

The Taxpayer Bill of Rights Act of 2010 would improve services and protect the rights of US taxpayers, particularly those with low and moderate incomes. Specifically, the Act would: protect taxpayers from unscrupulous tax return preparers and refund anticipation loan providers; clarify taxpayers' rights and obligations; support tax preparation and representation clinics; and enhance low-income taxpayers' access to financial institutions. The following is a detailed summary of the bill.

TITLE I. TAXPAYER BILL OF RIGHTS

Clarify a Taxpayer Bill of Rights. The Act requires the Treasury to publish an easy-to-understand Taxpayer Bill of Rights enumerating all taxpayers' rights and obligations. This provision would not confer any rights or obligations not already provided for under law.

TITLE II. PREPARATION OF TAX RETURNS

Authorize Funding for Volunteer Income Tax Assistance (VITA) Programs. The Act authorizes a \$35 million grant program for VITA programs nationwide. Additional federal support will enable community VITA programs to reach more underserved low-income taxpayers, resulting in more families accessing vital tax credits, such as the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC).

Authorize Referrals and Funding for Low-Income Taxpayer Clinics (LITCs). The Act authorizes the Treasury Secretary to refer taxpayers to Low-Income Taxpayer Clinics. These clinics, typically operated by community organizations and law schools, provide representation to low-income taxpayers in disputes with the IRS. The Act also authorizes an increase in funding for LITC grant programs to \$20 million.

Regulate Compensated Tax Return Preparers.

- **Current Law.** Most states do not regulate tax return preparers, nor does the federal government currently regulate unenrolled tax return preparers (*i.e.*, return preparers who are not CPAs, attorneys, enrolled agents, or enrolled actuaries – all already regulated under IRS Circular 230). A significant percentage of unenrolled preparers are well-trained and maintain high ethical standards. But untrained and unscrupulous tax return preparers can inflict serious harm on taxpayers and significantly undermine tax compliance. For years, taxpayers, tax professionals, and the National Taxpayer Advocate have been calling for federal regulation of unenrolled preparers. In early 2010, the IRS began taking steps to exercise oversight over these unenrolled preparers. But it is still unclear that the IRS's program will be sufficiently comprehensive.
- **Requirements for Compensated Tax Return Preparers.** The Act codifies a regulatory system for unenrolled preparers:
 - **Testing.** In order for a tax preparer to become registered and authorized by Treasury, s/he must pass a basic background check and an examination of competency and ethics standards.
 - **Maintenance of License.** To remain in good standing, s/he will be required to satisfy continuing education requirements or be reexamined every three years on changes in tax law and common preparation mistakes.
 - **Publication of Authorized Tax Preparers List.** The Act requires Treasury to maintain and publish for taxpayers a comprehensive list of all authorized tax return preparers, including Circular 230 preparers.

Monitor Tax Refund Delivery Products. The Act requires Treasury to establish a registration program for all those involved in the process of facilitating a tax refund delivery product (RDP), including Refund Anticipation Loans (RALs).

- **Registration.** RDP facilitators will be required to register annually with Treasury.

- **Additional Disclosures.** RDP facilitators will be required to disclose in writing and in an easily understandable format the taxpayer's options for receiving tax refunds (listed from least expensive to most expensive), the RDP's loan terms and fee schedule, and any other costs that the taxpayer may incur in filing a tax return.
- **Refund Indicator.** Treasury will not issue a Refund Indicator (a score on which RDP facilitators rely before issuing a RDP) to a RDP facilitator unless Treasury first determines that the taxpayer's refund would not be prevented by debts owed on student loans, child support, or by other provisions in the Tax Code. This will minimize the likelihood that a taxpayer will be issued a loan based on a refund claim that will not ultimately materialize (and which the taxpayer would nonetheless be required to repay).

TITLE III. IMPROVING TAXPAYER SERVICES

Improve Taxpayer Services. The Act expresses the Sense of Congress that the IRS should, within 2 years:

- Reduce the time between receiving a return and remitting the refund;
- 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;
- Deliver tax refunds on debit and prepaid cards and through other electronic means to assist individuals that do not have access to financial accounts and institutions;
- Establish a pilot program for satellite walk-in centers to be located in rural underserved communities; 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.

Requires Additional Protections Prior to the Filing of a Federal Tax Lien. The IRS has a number of enforcement tools at its disposal to ensure tax compliance, but use of these tools must be balanced with the need to ensure taxpayers do not suffer unnecessary long-term harm as a result. One such tool is the filing of a Notice of Federal Tax Lien (NFTL) when a taxpayer owes back taxes. The Act would require the IRS to make individualized determinations before filing an NFTL, and also requires consideration of several factors before these determinations are made (including the amount due, the taxpayer's compliance history, and any extenuating circumstances).

Establish a Demonstration Program to Provide Accounts to the Unbanked. The Act provides that Treasury may award demonstration project grants to eligible entities to establish banking accounts for individuals who currently do not have accounts. The Act also requires a study on the feasibility of delivering tax refunds on debit, prepaid, and other electronic cards.

Require Studies on the Processing of Information Returns and Collection Alternatives.

- Study on Processing of Information Returns. The Act requires Treasury to conduct a study to identify and recommend legislative and administrative changes that would enable the IRS to receive and process information reporting documents (such as 1099s and W-2s) before it processes tax returns.
- Study on the Effectiveness of Collection Alternatives. The Act requires Treasury to conduct a study to assess the effectiveness of collection alternatives, especially offers in compromise, on long-term tax compliance.