
ADMINISTRATIVE INITIATIVES TO ENHANCE TAXPAYER RIGHTS

ANNOUNCEMENT 96-5.

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Administrative actions to enhance taxpayer rights.

BACKGROUND

The IRS and Treasury worked closely with Congress throughout its drafting of the “Taxpayer Bill of Rights 2” (“TBOR 2”), a part of the now vetoed Revenue Reconciliation

Act of 1995. The IRS and Treasury wish to ensure that the bi-partisan momentum that led to TBOR 2 is not lost.

This Announcement identifies the TBOR 2 proposals that Treasury and the IRS have already adopted administratively or will soon implement. For those TBOR 2 provisions requiring legislative action, the IRS and Treasury intend to work with Congress to enact such provisions as are necessary and appropriate to continue the ongoing process of enhancing taxpayer rights.

This Announcement also describes certain regulatory and guidance projects that were not part of TBOR 2 but which Treasury and the IRS either have already implemented or intend to implement in the next few months to reduce taxpayer burdens and enhance taxpayer protections.

NEW ADMINISTRATIVE ACTIONS BASED ON TBOR 2 PROVISIONS

The IRS administratively adopts the following TBOR 2 provisions, as passed by the House of Representatives.

1. *Increased Taxpayer Ombudsman Authority to Address Taxpayer Concerns.*

The Taxpayer Ombudsman was authorized by Congress in 1988 to issue Taxpayer Assistance Orders (“TAOs”) to resolve taxpayer problems. Section 7811 of the Code gives the Ombudsman the authority to issue a TAO to direct IRS officials to stop certain actions to alleviate a hardship faced by a taxpayer. The Commissioner delegated additional authority to the Ombudsman to issue TAOs to take positive actions to relieve taxpayer hardship.

The Commissioner of Internal Revenue (“Commissioner”) is issuing a Delegation Order, effective immediately, to clarify the Taxpayer Ombudsman’s expanded authority to issue TAOs. For example, the Ombudsman has the authority to issue a TAO directing the IRS to pay a refund immediately to a taxpayer eligible for a refund to relieve severe hardship facing such a taxpayer. In addition, a TAO can temporarily stay an IRS collection action in order to allow the IRS to review the appropriateness of the action.

The Delegation Order will also direct the Ombudsman to prepare an annual report on the most serious problems that taxpayers face with the IRS and suggest administrative and legislative solutions to these problems.

2. *Commissioner’s Directive to Track IRS Response to Taxpayer Ombudsman Annual Reports*

The Commissioner is issuing a Delegation Order, effective immediately, to require the Ombudsman to track the IRS response to the administrative problems identified in the Ombudsman’s annual report.

3. *Greater Protection for Taxpayer Assistance Orders*

Treasury and the IRS will publish proposed regulations early in 1996 under section 7811 of the Code to limit the authority to modify or rescind a TAO to only the Commissioner, Deputy Commissioner, or Ombudsman. Section 7811 currently allows a greater number of specified individuals to do so.

In addition, the Commissioner is issuing a Delegation Order, effective immediately, that voluntarily adopts this new TAO rescission and modification limitation.

4. *Increased Stature of Taxpayer Ombudsman Within the IRS*

The Commissioner intends to take the steps necessary to increase the stature of the Taxpayer Ombudsman within the IRS by raising the Ombudsman’s compensation to that of the highest level official reporting directly to the Deputy Commissioner.

5. *Greater Participation of Ombudsman in Selection of Local Problem Resolution Officers*

The Commissioner is issuing a Directive, effective immediately, that requires the Ombudsman or his delegate, normally the regional Problem Resolution Officers (“PROs”), to participate in the selection and evaluation of local district PROs. The Ombudsman’s office will thus have a strong voice in choosing field personnel who have a high degree of familiarity with taxpayer concerns.

6. *New Procedures to Allow Taxpayers to Appeal Liens, Levies, and Seizures*

Effective April 1, 1996, taxpayers will have the right to appeal liens, levies, and seizures proposed by the IRS. Each taxpayer subject to a lien, levy, or seizure will receive Publication 1660, “Collection Appeal Rights for Liens, Levies and Seizures”, which will explain the taxpayer’s right to make such an appeal and the procedure for requesting an appeal. Form 9423, “Collection Appeal Request”, is also being updated with a summary of the information included in Publication 1660 on its reverse side. Further, Publication 594, “Understanding the Collection Process,” is being amended to inform taxpayers about the new appeal process. The IRS will also amend the Internal Revenue Manual to direct IRS personnel on the appeals process and taxpayers’ rights to such appeals.

7. *Notification of Collection Activity to Divorced and Separated Spouses*

The IRS plans to adopt a rule by March 1996 to allow its personnel to notify one spouse of collection activity against the other spouse to collect a joint return liability. The IRS will amend the Internal Revenue Manual (“IRM”) to give IRS personnel uniform procedures to make such notifications while providing sufficient privacy safeguards to each spouse.

8. *Prohibition on Compromising Informant’s Tax Liability*

The IRS is issuing procedures to formalize its longstanding practice of prohibiting special agents from compromising the tax liability of an informant in exchange for information about another taxpayer. The procedure, effective immediately, will be included in § 9373.31:(8) of the IRM.

9. *Voluntary Payor Telephone Numbers on Forms 1099*

Effective immediately, the IRS will request that payors include their telephone numbers on the taxpayers’ copies of Forms 1099. Taxpayers may thus find it easier to resolve their

disputes with payors without IRS involvement.

10. *Study of interest netting*

Treasury and the IRS are beginning a formal study of issues relating to the IRS's current and future interest netting procedures. Treasury and the IRS will soon issue a Notice that will ask for public comment on specific legal and administrative issues.

TBOR 2 PROVISIONS THAT HAVE ALREADY BEEN ADOPTED ADMINISTRATIVELY

The IRS and Treasury have already administratively adopted the following TBOR 2 provisions.

1. *Study of Joint Return Issues For Divorced and Separated Spouses*

The IRS has begun a formal study of the unique tax issues facing divorced and separated spouses who filed joint returns. The study's goal is to recommend specific legislative and administrative actions, where possible. The IRS and Treasury will soon issue a Notice asking for public comment on specific legal and administrative issues.

2. *Increased IRS Investigation of Disputed Information Returns*

The IRS will amend §424(16) of the IRM, effective January 31, 1996, to increase current IRS efforts to investigate tax information reported by payors where a taxpayer challenges the accuracy of the information, such as wage income reported to the IRS on Forms W-2 or other income payments reported on Forms 1099.

3. *30 Day Notice Before Terminating or Modifying Installment Agreements*

Regulation § 1.6159-1(c)(4) and internal IRS procedures already provide a taxpayer with 30 days notice before the taxpayer's installment agreement with the IRS is either terminated or modified.

4. *Penalty for Trust Fund Taxes Under § 6672*

The IRM provides that taxpayers liable for trust fund taxes should be

given 60 days notice before being assessed a non-payment penalty. An IRS policy statement prevents the IRS from assessing this non-payment penalty against honorary or volunteer trustees not involved in an organization's daily operations.

5. *Annual Reminders of Outstanding Delinquent Accounts*

The IRM directs IRS personnel to provide annual, and sometimes semianual, reminders to taxpayers with outstanding delinquent tax accounts.

6. *Notice of Overpayments*

The IRM requires the IRS to notify a taxpayer as soon as reasonably possible if the IRS receives a payment not apparently related to a taxpayer's liability or not identifiable to a proper taxpayer account. This notification generally takes place well before the 60 days specified in TBOR 2.

7. *Limitations on the Use of a Designated Summons*

The IRS is adopting a policy statement, effective immediately, that formalizes the current IRS practice of requiring Regional Counsel to review designated summonses before issuance. The policy statement also reemphasizes the current IRS policy of issuing designated summonses only to large corporate taxpayers under the Coordinated Examination Program ("CEP"), except in unique circumstances.

PUBLISHED PRIORITY GUIDANCE LIST ITEMS THAT IMPROVE TAXPAYER RIGHTS

Treasury and the IRS are committed to completing the following administrative and regulatory projects that were included on the 1995 published priority guidance list and ease compliance burdens on taxpayers.

1. *Early Appeal of Employment Tax Issues*

Treasury and the IRS will soon issue a revenue procedure to allow employers to appeal employment tax issues while an examination is still in progress. This procedure, modeled on the CEP early referral procedures in Rev. Proc. 96-9, should reduce the

time and expense necessary to resolve employment tax issues, such as the classification of a worker as an employee or independent contractor.

2. *Appeals Mediation Procedure*

A one-year test of an Appeals mediation procedure began on October 30, 1995, as described in Announcement 95-86. The mediation procedure allows taxpayers with certain cases in Appeals, but not docketed in any court, to request mediation of one or more issues. Mediation has already been used to resolve a multi-million dollar valuation dispute.

3. *Obtaining Advance Valuation of Artworks*

Valuing artwork is important for such tax purposes as estate and gift taxes and the charitable contribution deduction. Recently released Rev. Proc. 96-15 tells taxpayers how to obtain IRS review of a taxpayer's valuation of a work of art before filing a return.

4. *Making Taxpayer Identification Numbers Available*

Taxpayers must obtain Taxpayer Identification Numbers ("TINs") under §6109 of the Code. An individual's Social Security Number ("SSN") generally serves as a TIN. For taxpayers ineligible to obtain SSNs, Treasury and the IRS will soon propose regulations to provide a method to obtain a TIN.

5. *Obtaining Section 9100 Relief*

Taxpayers can obtain relief in connection with certain requests for changes of accounting method or period under Treas. Reg. § 301.9100-1. Revenue Procedure 92-85, which sets forth the procedures for obtaining such relief, will be revised.

6. *Allow Automatic Extensions Without Payment*

Section 6081 of the Code authorizes the IRS to grant reasonable extensions of time to file required returns. The regulations currently allow individuals to obtain an automatic 4-month extension of time to file their returns if they pay any balance due. Notice 93-22 eliminated the requirement that the tax be fully paid upon application for the

extension. Treasury and the IRS issued temporary and proposed regulations on January 4, 1996, to make this change permanent. Taxpayers may still be subject to failure to pay penalties and interest if they obtain an extension for a return with a balance due.

7. Permit Use of Imaging Systems to Store Tax Records

A revenue procedure will be issued to give taxpayers the option of using

computer imaging systems, rather than paper copies, to store the tax records necessary to support their tax returns.

8. Electronic Filing of Form 941

Most employers must file Form 941, "Employer's Quarterly Federal Tax Return," to report the income tax and Federal Insurance Contributions Act ("FICA") tax paid by the employer and withheld from employees. Recently released Rev. Proc. 96-19 sets forth the

procedures to be used by taxpayers who wish to file Form 941 electronically.

9. Simultaneous Appeals/Competent Authority Procedure

In December 1995, the Service issued Rev. Proc.s 96-13 and 14 which authorize a new simultaneous Appeals/Competent Authority procedure. Taxpayers may now request the involvement of Appeals on issues under competent authority jurisdiction.