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Taxpayer Bill of Rights Enhancement —Oh Happy Day

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JUNE 16, 2015

Taxpayers today may have felt a cooling breeze in the summer heat—courtesy of Senators Charles Grassley (R-IA) and John Thune (R-SD)—introducing the Taxpayer Bill of Rights Enhancement (TBORE). Reform of the IRS and improved taxpayer rights is good not only for taxpayers—but, it may surprise you, also the IRS.

My former boss, Senator Grassley, has been successfully championing improvements in taxpayer rights for a number of years (taxpayers have no better friend in the Senate)—and it is heartening to see Senator Thune joining the good fight.

Some of the key provisions of the TBORE—S. 1578 for those keeping score at home—are:

First, require that IRS employees are familiar with and act in accord with the IRS’ announced “Taxpayer Bill of Rights.” These rights were championed by the Taxpayer Advocate, Ms. Nina Olson, and (to his credit) agreed to by IRS Commissioner Koskinen.

These taxpayer rights include such fundamental points as the right of the taxpayer to be: informed (i.e., what is going on in my exam, what are the issues the IRS has?); quality service; to be heard; to appeal; finality (when will this exam be over?) confidentiality; etc. While the IRS in Washington, D.C. has said these are taxpayer rights—the legislation will reinforce the importance of these rights and that they need to be respected both in Washington and in the field.

This provision will be a big assist to taxpayers. I find it already useful when representing taxpayers to wave the Taxpayer Bill of Rights before IRS agents and managers—having this on the statute books will help even more.

Second, making it easier for taxpayers to enter into an installment agreement (waiver of user fee when taxpayer agrees to automatic withdrawals) or have an offers-in-compromise agreed to (no longer requiring chief counsel review for offers in compromise of over \$50,000).

Third, expansion of interest netting-interest runs immediately both when the IRS owes the taxpayer money and when the taxpayer owes the IRS money (currently the IRS has 45 days to refund an overpayment without paying interest).

Fourth, allow the Treasury Inspector General for Tax Administration to tell a taxpayer the results of an investigation involving the rights of the taxpayer.

Fifth, electronic filing-require the IRS to continue to provide current free file programs (in cooperation with the private sector) to the elderly and low-income; also require electronic filing for exempt organizations.

The legislation also includes some thank you notes for the IRS and the 501(c)(4) imbroglia—including requirement of electronic record retention (yes, crazy I know); heightened penalties for unauthorized disclosure of taxpayer information; prohibition on IRS officers and employees using personal email accounts to conduct official business; and, allow all 501(c) and (d) organizations (not just 501(c)(3)) the same rights of appeal for a denial or IRS failure to act on the application.

The Grassley-Thune language is an encompassing approach to taxpayer rights—and builds on the earlier important, but limited, taxpayer rights legislation considered by the House. I expect that as Congress (and especially the Senate Finance Committee) thinks about taxpayer rights legislation it will also give good consideration to the thoughtful provisions on protecting the rights of small business taxpayers put forward by Senator Cornyn (R-TX).

It is important for both taxpayers and the IRS that Congress look to passing taxpayer rights legislation in the near future. The simple truth is that while there are those concerned that the IRS faces pressing funding issues (and its impact on taxpayer services and compliance efforts)—Congress currently remains in no mood to provide additional dollars (much less keep current funding levels). To encourage a number of legislators to have an open mind on the proper level of IRS funding, it is key to pass legislation that is responsive to the issues of concern to many in the public and Congress.

The Grassley-Thune TBORE is welcome relief from the heat for everyone—taxpayers and the IRS.



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