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THE TAX LAWYER

TAXES | 4/09/2014

Know Your Rights With IRS? What Rights?

If you're dealing with taxes and the IRS, it can sometimes feel as though you don't have any rights. Well, except the right to pay of course. Taxpayer rights can sound like an oxymoron, a bit like living death.

You do have rights, of course, but are they enough? And do they have any teeth against this most powerful agency? Periodically, Congress addresses this troublesome question, as it did decades ago in several bills designed to give taxpayers clear procedural and substantive rights in tax matters.

In a previous pendulum swing away from an IRS bent on toughness, Congress enacted [sweeping reforms in 1998](#) to make the IRS kinder and gentler. The [IRS Restructuring and Reform Act of 1998](#) added extra hoops for the IRS to jump through before it could collect. Due process hearings, and for a time, the IRS even called taxpayers "customers."

Most of those procedural safeguards are still in place, although the pendulum has again swung the other way. These days, the IRS seems to have more power than Congress. That's one reason U.S. Taxpayer Advocate Nina Olson has repeatedly called for a new and stronger Taxpayer Bill of Rights. Among other things, she has lambasted the IRS handling of applications for tax-exempt status.

She concludes that the IRS procedures violated eight of the ten taxpayer rights she has proposed. She doesn't like IRS handling of expats either. "Taxpayer rights are central to voluntary compliance," her report says. "If taxpayers believe they are treated, or can be treated, in an arbitrary and capricious manner, they will mistrust the tax system and be less likely to comply with the laws voluntarily. If taxpayers have confidence in the fairness and integrity of the system, they will be more likely to comply."

The report emphasizes that the U.S. tax system is built on voluntary compliance. This cannot be stressed too much. Think about just how important taxpayer confidence really is. Ninety-eight percent of all tax revenue the IRS collects is paid timely and voluntarily.

It means that only 2 percent is the result of IRS enforcement actions. Those are staggering statistics. And voluntary compliance is cheap too, compared to all of the costs and inefficiencies of enforcement. It doesn't appear that this mismatch is being taken as seriously as it should be.

Sure, there are a couple of bills plodding along. If enacted, they would at least provide limited guarantees. The Taxpayer Transparency and Efficient Audit Act, H.R. 2530, would require the IRS:

1. To provide a substantive written response (not merely an acknowledgment letter) to any written correspondence from a taxpayer not later than 30 days after receiving such correspondence;
2. Within 30 days after disclosing taxpayer information to any federal, state, or local governmental entity, to provide to the taxpayer a written notification describing the information, to whom it was disclosed, and when it was disclosed;
3. To provide the taxpayer a written letter explaining why an audit of such taxpayer has taken more than one year to complete; and
4. To use amounts authorized or appropriated outside of this Act to carry out such requirements.

Another bill, the Protecting Taxpayers from Intrusive IRS Requests Act, H.R. 2531, would prohibit the IRS from asking any taxpayer any question regarding religious, political, or social beliefs. This proposed legislation would also establish the sense of Congress that:

1. Any exceptions to this prohibition should identify the specific questions authorized, the class of taxpayers to whom these questions may be asked, and the circumstances under which they may be asked;

2. If the IRS Commissioner determines that asking any class of taxpayers a prohibited question would aid in the efficient administration of the tax laws, the Commissioner must provide a report that includes the question in the form it will be asked, describes the class of taxpayers to whom the question is would be asked, and describes the circumstances that would be required to exist before the question would be asked.

It isn't clear that taxpayer rights are being taken as seriously as Taxpayer Advocate Olson has urged. That is unfortunate, since her voice is a clear and cogent one that should be heeded. Perhaps she should be IRS Commissioner. Now there's a radical thought.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.