



Testimony

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TAX ADMINISTRATION: IRS' Implementation
of the Taxpayer Bill of Rights

Statement of
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Before the
Subcommittee on Private Pension Plans
and Oversight of the Internal
Revenue Service
Committee on Finance
United States Senate



IRS' IMPLEMENTATION OF THE
TAXPAYER BILL OF RIGHTS

SUMMARY OF STATEMENT BY
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The Taxpayer Bill of Rights specifies the rights and remedies available to taxpayers during IRS' administration of the tax laws. Generally, GAO believes IRS has done a satisfactory job of implementing the Taxpayer Bill of Rights and believes taxpayers have benefitted from the act, most visibly from the program authorizing IRS to assist taxpayers with hardships. IRS statistics show that this program helped about 32,500 taxpayers during fiscal years 1990 and 1991. Some taxpayers, however, may not receive such help if they do not realize that assistance is available. IRS studies show that its employees need to do a better job recognizing hardship situations and seeking assistance on taxpayers' behalf. And to alleviate taxpayer hardships, Congress may want to clarify IRS' authority to withdraw notice of liens that have been placed on taxpayers' property.

IRS prepared a pamphlet to advise taxpayers of their rights as required by the act. IRS provides the pamphlet to taxpayers notified about a collection or determination of tax liability, such as the notice IRS sends to arrange an audit interview. It is important that taxpayers understand their rights before the interview because they have some flexibility in setting the interview arrangements. GAO believes IRS can do more to alert taxpayers to their rights before the interview.

GAO learned that IRS district offices and service centers follow different procedures when installment agreements to pay taxes are canceled for failure to pay on time. To avoid the potential for inconsistent treatment of taxpayers, GAO believes IRS should establish and follow consistent procedures for notifying taxpayers of pending cancellation of installment agreements.

IRS notifies taxpayers of levies on their bank accounts 7 days after the bank is notified. This allows taxpayers 14 days out of the 21-day holding period required by the Taxpayer Bill of Rights to resolve any errors before the levy proceeds are forwarded to IRS. IRS' purpose is to reduce the possibility that taxpayers can withdraw funds before the bank has the opportunity to freeze the taxpayers' account. Congress may want to clarify how much time taxpayers should have to resolve levy errors.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss IRS' implementation of the Taxpayer Bill of Rights. Congress passed the Taxpayer Bill of Rights as part of the Technical and Miscellaneous Revenue Act of 1988.

We are issuing today a report¹ done at your request that assesses IRS' implementation of the Bill of Rights. In the report we conclude that IRS' implementation was generally successful and that taxpayers have benefitted from the act. The most visible example is the Taxpayer Assistance Order Program through which IRS helped about 32,500 taxpayers in fiscal years 1990 and 1991.

My testimony today focuses on opportunities identified in the course of our review that could improve IRS' administration of the act.

IRS NEEDS TO ENSURE THAT EMPLOYEES
ARE ABLE TO IDENTIFY HARDSHIP CASES

Section 6230 of the act authorizes IRS' Taxpayer Ombudsman to issue Taxpayer Assistance Orders to rescind or change an IRS

¹ TAX ADMINISTRATION: IRS' Implementation of the 1988 Taxpayer Bill of Rights, GAO/GGD-92-23; December 10, 1991.

action if IRS' administration of the tax laws causes significant taxpayer hardships. IRS decided to broaden its efforts to assist taxpayers by (1) expanding the hardship definition to include all hardships that it could resolve, (2) helping as many applicants as it reasonably could, even if they did not meet the hardship criteria, and (3) making IRS employees responsible for recognizing hardship situations and helping taxpayers apply for assistance.

During fiscal years 1990 and 1991, IRS reported that it closed about 46,000 hardship applications and provided some form of assistance under the Taxpayer Assistance Order program to 32,500, or about 70 percent, of the applicants. For the remaining 14,000, or 30 percent, IRS determined that taxpayers either did not qualify for assistance, or IRS was unable to provide it. Also during fiscal years 1990 and 1991, IRS reported that its employees initiated 27 and 22 percent, respectively, of the hardship applications. Taxpayers or their representatives initiated the rest.

In a 1989 test, IRS' Internal Audit found that IRS employees who assist taxpayers over toll-free telephone lines failed to recognize about 79 percent of the test calls that met IRS' hardship criteria. In its May 1990 report, Internal Audit recommended that (1) IRS expand its test call program to include

procedures that isolate call site weaknesses and provide immediate feedback to correct problem areas and (2) consider establishing a similar test call program at its Automated Collection System sites, which contact taxpayers about outstanding tax liabilities. IRS revised training materials to improve employees' performance but, as of September 1991, had not developed a reliable test to determine whether performance had improved. IRS agreed with our recommendation to develop a reliable test and, if necessary, take additional corrective action to help employees recognize hardship situations.

IRS IS REQUESTING LEGISLATIVE
AUTHORITY TO WITHDRAW NOTICE OF LIENS

During the course of our work, IRS officials said that they were sometimes prevented from helping taxpayers with hardships even though it would be in the best interests of the government and the taxpayer. They referred specifically to instances where they believed the Internal Revenue Code prevented them from withdrawing notice of a tax lien until the taxpayer's obligations have been satisfied. Often, said these officials, the public filing of a notice of lien adversely affects a taxpayer's ability to borrow funds or enter into other financial relationships with suppliers and other creditors because credit bureaus routinely search lien records. As such, it may impose an unintended and

counterproductive result that causes a hardship for the taxpayer and/or undermines a taxpayer's ability to pay taxes.

In October 1991, IRS decided that current law permits notice withdrawals in certain instances--when lien notices were not filed according to IRS guidelines or did not follow good business practice. Newly-issued procedures, IRS officials said, should help alleviate the problem discussed above, but they believe that clarifying legislation is still needed to assure creditors that IRS' lien no longer has priority in financial dealings with the taxpayer. Consequently, Congress may wish to consider amending the tax code to clarify IRS' authority to withdraw notices of liens when it is in the best interests of the government and taxpayers.

IRS SHOULD DO MORE TO ENSURE THAT
TAXPAYERS READ PUBLICATION 1

Section 6227 of the act requires IRS to provide any taxpayer it contacts about a collection or determination of tax liability with a clear statement of their rights. To provide a statement of rights, IRS sends taxpayers Publication 1, Your Rights as a Taxpayer. To schedule audit interviews, IRS examiners send taxpayers a notification letter with Publication 1 enclosed and when necessary, confirm the interview arrangements by telephone. At the interview or before, IRS examiners are required to (1)

confirm the taxpayer's receipt of Publication 1, (2) briefly explain the audit process and appeal rights, and (3) ask if the taxpayer has any questions.

In our interviews of 25 revenue agents from 2 regions, we learned that most of them found out if taxpayers received Publication 1 and explained taxpayer rights at the beginning of the audit interview. However, none of them explained taxpayer rights during the initial telephone contact. It is important that taxpayers understand the rights spelled out in Publication 1 before they attend the interview, because, for example, these rights offer taxpayers some flexibility in setting the time and place of the interview, and in sending a representative to the interview in lieu of attending themselves. Therefore, we recommended, and IRS agreed, to emphasize the importance of reading Publication 1 when contacting taxpayers by telephone or correspondence before an audit interview.

IRS NEEDS TO STANDARDIZE NOTIFICATION
OF DEFAULTED INSTALLMENT AGREEMENTS

Section 6234 of the act establishes criteria under which IRS may cancel, or default, an installment agreement for paying taxes. We looked at the procedures IRS follows in defaulting installment agreements and whether the procedures result in unfair taxpayer treatment. We learned that IRS procedures for notifying

taxpayers about defaulted agreements depend on whether the agreement is monitored by an IRS service center or a district office. Service centers, which monitor most agreements by computer, notify taxpayers by letter about 5 weeks before defaulting an agreement. District offices, which monitor agreements with a balance due of more than \$1 million or those that cannot be monitored by computer, do not have formal procedures for notifying taxpayers and, according to district office officials, normally notify taxpayers by telephone if an agreement is in danger of default. District office officials acknowledged that some taxpayers might not be notified about a defaulted agreement and the amount of advance notice might vary for those who are notified. The different procedures followed by service centers and district offices raise the issue of inconsistent treatment of taxpayers. To avoid this possibility, we recommended and IRS agreed to develop standard procedures for notifying taxpayers that their installment agreements are about to be cancelled.

CONGRESS MAY WISH TO CLARIFY HOW MUCH TIME
TAXPAYERS HAVE TO CORRECT LEVIED ACCOUNTS

The act requires banks and financial institutions to hold levied funds for 21 days before forwarding the funds to IRS. Congress created the holding period to allow taxpayers an opportunity to notify the IRS of errors with respect to levied accounts. The

provision was inserted following a number of publicized incidents involving banks forwarding funds belonging to children of taxpayers owing taxes--the so-called "kiddie levy."

Following passage of the act, we found that erroneous levies numbered about 12,400 in fiscal year 1986 or less than 3 percent of all levies that year. But we also found that taxpayers do not have the full 21 days to correct an erroneous levy. This occurs because IRS sends taxpayers a notice concerning a bank levy about a week after mailing the notice to the bank, leaving taxpayers with about 14 days to correct errors. The purpose of this procedure, according to IRS officials, is to reduce the possibility that taxpayers can withdraw funds before the bank has the opportunity to freeze the taxpayers' account. IRS officials said the statutory requirement is only intended to ensure that banks hold funds for 21 days after they receive a levy notification and does not require IRS to allow 21 days for taxpayers to resolve any questions about the levy.

Congress' intent for the amount of time to be allotted taxpayers is not explicitly laid out in the act or the committee reports. We do not know if 14 days is enough time for taxpayers to straighten out any errors regarding their accounts, and we understand IRS' reasons for wanting to send a notice levy to the bank before sending it to the taxpayer. However, if Congress'

intent was for taxpayers to have a full 21 days, it may wish to clarify the current provision.

CONCLUSIONS

It is obviously important that all citizens pay their fair share of taxes. It is equally important for IRS to treat taxpayers fairly. We are generally satisfied with IRS' implementation of the Taxpayer Bill of Rights. We believe that most IRS employees work diligently to treat taxpayers fairly and equitably. But it is likely in an organization of 120,000 employees at over 700 locations tasked with administering a complex set of tax laws that some taxpayers will not be accorded the treatment to which they are entitled. For this reason, IRS will need to continually emphasize the act's requirements and measure performance in meeting its intent. We also support your efforts and the efforts of others to further enhance the protection of taxpayer rights. In this light, we will be glad to assist you as you consider additional taxpayer rights legislation.



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