



# Taxpayers F.I.R.S.T.

## **Shaping a Future of Fairness: Proposals to Safeguard and Strengthen Taxpayer Rights**

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## Introduction

Congress passed the Inflation Reduction Act (IRA) in 2022, which included just under \$80 billion in additional funding for the Internal Revenue Service (IRS) over a ten-year period, increasing its funding by over 50 percent.<sup>1</sup> Though approximately \$21 billion was later rescinded, the IRS remains set to benefit from a significant boost to its funding over the next decade.

But while additional funding should expand the IRS's capabilities, the IRA left things fairly open-ended as to how exactly the IRS should direct these new resources and what metrics it should be focusing on. In order to fill this gap and provide the IRS and policymakers with expert advice on reform and modernization while spending plans develop, the National Taxpayers Union Foundation (NTUF) launched its Taxpayers for IRS Transformation (Taxpayers FIRST) project.

At the core of the Taxpayers FIRST project is the convening of an advisory board made up of former IRS officials, academics, practitioners, accountants, and policy experts. These advisory board members have diverse views and backgrounds, but are united in the shared goal of ensuring the taxpayer dollars entrusted to the IRS help make it more efficient, effective, and accountable.

Informed by the discussions of the Taxpayers FIRST Advisory Board, NTUF is publishing four reports covering areas IRA funding was meant to address. The ideas in these papers do not necessarily reflect the specific views of any single member; rather, they are synthesized views after critical debate, discussion, and review by the Advisory Board.

This is the fourth installment of the series, focusing on taxpayer rights. While some of our previous topics – IRS modernization, customer service, and enforcement – were explicitly addressed in the IRA, taxpayer rights were not. Given the unprecedented level of resources allocated to the IRS under the law, policymakers must take affirmative steps to ensure any updates and improvements in tax administration and enforcement fully account for – and ideally expand – the rights of all taxpayers. This report will explore those issues and offer actionable ideas for policymakers to provide those protections.

## Background and History

In the United States, the concept of taxpayer rights has evolved significantly over time. Starting from its predecessor's establishment during the Civil War, the IRS has exercised substantial power to enforce and ensure compliance with the tax code. As this power grew, so too did the demand for protections for taxpayers.

Since the late 1980s, Congress has responded to these concerns by passing legislation to balance the scales. This bipartisan effort, led in large part by the late Senators Harry Reid and David Pryor, along with current Senator Chuck Grassley, culminated in the passage of the Taxpayer Bill of Rights, which ensures baseline protections for taxpayers in the context of tax collection and enforcement.<sup>2</sup> As the National Taxpayers Union noted in a tribute to Senator Reid's efforts upon his death in 2021:

Prior to the first Taxpayer Bill of Rights enacted into law in 1988, a citizen stepping into the proverbial ring with the IRS did so as a flyweight with only one gloved hand free, facing a super-heavyweight with bare knuckles. Worse, the referee sometimes had selective vision, the timekeeper tolled the bell irregularly, and the Marquess of Queensberry-type rules that should govern the match were missing more than a few key provisions.<sup>3</sup>

<sup>1</sup> Congressional Research Service, "IRS-Related Funding in the Inflation Reduction Act," CRS-IN11977, Updated October 20, 2022, <https://crsreports.congress.gov/product/pdf/IN/IN11977>.

<sup>2</sup> Sen. Harry Reid (D-NV), "S.579 - Taxpayers' Bill of Rights Act," 100th Congress, February 23, 1987, <https://www.congress.gov/bill/100th-congress/senate-bill/579?s=1&r=516>.

<sup>3</sup> Pete Sepp, "Harry Reid, Taxpayer Rights Champion," National Taxpayers Union, January 12, 2022, <https://www.ntu.org/publications/detail/harry-reid-taxpayer-rights-champion>.

Broadly speaking, the 1988 Taxpayer Bill of Rights ensured taxpayers had the right to be informed, assisted, and heard. Toward those ends, it codified procedural safeguards, including a requirement that the IRS give taxpayers notice of any audits and the ability to appeal disagreements before an independent forum. It also allowed taxpayers to recover costs and fees incurred during those proceedings. The law empowered the IRS to enter into installment payment agreements with taxpayers and prohibited using tax enforcement results in evaluations of IRS collection employees. Additionally, it gave the Taxpayer Ombudsman – which later evolved to be the Taxpayer Advocate Service (TAS) – authority to issue Taxpayer Assistance Orders when a taxpayer suffered significant hardship due to IRS collection or enforcement.<sup>4</sup>

The Taxpayer Bill of Rights underwent significant updates in subsequent years. In 1996, Congress passed Taxpayer Bill of Rights II, which formally established the Taxpayer Advocate Service, improved provisions on interest and penalty adjustments, and established safeguards against unauthorized disclosure of taxpayers' private information.<sup>5</sup> Another iteration – Taxpayer Bill of Rights III – was enacted in 1998 as part of the IRS Restructuring and Reform Act, a landmark law that, in many ways, established the modern IRS. This update notably shifted the burden of proof from the taxpayer to the IRS in certain enforcement proceedings, enhanced due process rights, and provided more substantive relief to innocent spouses who sign a joint return.<sup>6</sup>

In 2014, the IRS formally adopted an updated Taxpayer Bill of Rights into its operating procedures, taking “multiple existing rights embedded in the tax code and grouping them into 10 categories, making them easier to find, understand and use” (See Figure 1).<sup>7</sup> A year later, Congress enacted Section 7803 (a)(3), codifying those ten broadly enumerated rights into federal law and requiring the IRS Commissioner to ensure all IRS employees are familiar with and act in accordance of the rights outlined in the Taxpayer Bill of Rights.<sup>8</sup>

Despite its noble intentions, the Taxpayer Bill of Rights lacks strong enforcement mechanisms to ensure the IRS properly observes the listed rights. While the rights themselves are clearly outlined, there are limited practical consequences for the IRS for any violations and speculation is plentiful over how to impose those consequences.<sup>9</sup> Many critics also argue that there is insufficient awareness among taxpayers of their rights under the Taxpayer Bill of Rights. A lack of effective communication from the IRS coupled with the innate complexity of tax laws and IRS procedures leaves many taxpayers without an actionable understanding of how they can invoke these rights effectively. Without more robust accountability mechanisms and effective communication efforts, the Taxpayer Bill of Rights is viewed by many as more of a symbolic statement than an effective tool for protecting taxpayers. Due to these types of limitations, the Taxpayer Bill of Rights does not fundamentally change the balance of power between the IRS and the taxpayer.

In 2019, Congress took additional steps to protect taxpayers outside of the Taxpayer Bill of Rights framework with the passage of the Taxpayer First Act. In addition to provisions mandating technological upgrades and improvements to customer service, this law created the IRS Independent Office of Appeals to ensure taxpayers have ample opportunity to resolve disputes. It also reinforced protections for whistleblowers and further expanded the Taxpayer Advocate Service's authority.<sup>10</sup>

<sup>4</sup> Government Accountability Office, “IRS's Implementation of the 1988 Taxpayer Bill of Rights,” December 1991, <https://www.gao.gov/assets/ggd-92-23.pdf>.

<sup>5</sup> Taxpayer Bill of Rights 2, Pub. L. No. 104-506, <https://www.congress.gov/bill/104th-congress/house-bill/2337>.

<sup>6</sup> Congressional Research Service, “Taxpayer Bill of Rights 3: 1998 Tax Law Part 4 Summary of the New Law,” <https://www.everycrsreport.com/reports/RL30101.html>.

<sup>7</sup> Internal Revenue Service, “Taxpayer Bill of Rights: The Right to Be Informed,” February 2016, <https://www.irs.gov/pub/irs-news/FS-16-07.pdf>.

<sup>8</sup> Rep. Peter J. Roskam (R-IL), “H.R.1058 - Taxpayer Bill of Rights Act of 2015,” 114th Congress, February 25, 2015, <https://www.congress.gov/bill/114th-congress/house-bill/1058>.

<sup>9</sup> Richard K. Greenstein, “Rights, Remedies, and Justice: The Paradox of Taxpayer Rights,” Temple Law Review, Volume 91, No. 4, Summer 2019, <https://www.templelawreview.org/essay/rights-remedies-and-justice-the-paradox-of-taxpayer-rights/>.

<sup>10</sup> Rep. John Lewis (D-GA), “H.R.3151 - Taxpayer First Act,” 116th Congress, June 6, 2019, <https://www.congress.gov/bill/116th-congress/house-bill/3151>.

## The Taxpayer Bill of Rights

- **The Right to Be Informed:** Taxpayers have the right to know what they need to do to comply with the tax laws.
- **The Right to Quality Service:** Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS.
- **The Right to Pay No More than the Correct Amount of Tax:** Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.
- **The Right to Challenge the IRS's Position and Be Heard:** Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions.
- **The Right to Appeal an IRS Decision in an Independent Forum:** Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions.
- **The Right to Finality:** Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year.
- **The Right to Privacy:** Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary.
- **The Right to Confidentiality:** Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law.
- **The Right to Retain Representation:** Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS.
- **The Right to a Fair and Just Tax System:** Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely.

## The Inflation Reduction Act

With passage of the IRA, Congress gave the IRS an influx in funding, with the goal of increasing tax compliance to boost revenue collection and offset other spending in the law. Some policymakers raised concerns about the focus on enforcement without increased attention to taxpayer rights as innocent taxpayers may be unduly scrutinized in the effort to crack down on intentional tax evasion.<sup>11</sup>

The IRA also provided significant funding for IRS modernization and improvements to taxpayer services but did not require these efforts to expand protections for taxpayers. Moreover, the IRS's Strategic Operating Plan (SOP), released and subsequently updated after the passage of the IRA, outlined the administration's objectives in these areas, but neither the original SOP nor the update emphasized the importance of taxpayer rights.<sup>12</sup>

## The Status Quo for Taxpayer Rights

Thanks to the efforts of policymakers across the political spectrum, taxpayer protections have significantly improved since the 1980s. However, as many observers have pointed out, the complexities of the federal tax code – and the IRS's efforts to enforce and administer it – continue to present challenges.

### Tax Code Problems

The U.S. Internal Revenue Code itself imposes significant costs on virtually every taxpayer just to make sure they are complying. The latest edition of NTUF's annual study on tax complexity estimated that the compliance burden imposed by the tax system would reach roughly \$414 billion in 2024. That figure included an opportunity cost of \$280 billion resulting from the projected 6.5 billion hours taxpayers would spend on filling out and filing their returns, along with at least \$133 billion in out-of-pocket expenses for tax preparation.<sup>13</sup>

None of the Taxpayer Bill of Rights items specifically addresses compliance costs. By contrast, Canada's Taxpayer Bill of Rights includes a right “to have the costs of compliance taken into account when administering tax legislation.”<sup>14</sup>

### Service and Notice Issues

According to the Taxpayer Advocate Service, many taxpayers continue to “have difficulty finding clear and timely guidance on which they can rely, determining the status of pending issues, understanding IRS correspondence and whether they must respond to it.”<sup>15</sup> For example, when the IRS determines that a taxpayer owes additional tax, it must issue a notice of deficiency, which gives taxpayers a chance to seek review in the U.S. Tax Court if they disagree. But the IRS can also issue a “math error” notice, which immediately assesses the added tax. Taxpayers have 60 days to respond before the assessment becomes final. However, according to the Taxpayer Advocate Service, math error notices “often do not clearly explain the reason for the adjustment and do not

<sup>11</sup> Sen. Grassley's (R-IA) Office, “Grassley, Thune Lead Republican Colleagues In Introducing Legislation To Hold The IRS Accountable,” November 16, 2022, <https://www.grassley.senate.gov/news/news-releases/grassley-thune-lead-republican-colleagues-in-introducing-legislation-to-hold-the-irs-accountable>.

<sup>12</sup> IRS, “IRA Strategic Operating Plan Annual Update,” May 2, 2024, <https://www.irs.gov/pub/irs-pdf/p3744b.pdf>.

<sup>13</sup> Demian Brady, “Tax Complexity 2024: It Takes Americans Billions of Hours to Do Their Taxes,” National Taxpayers Union Foundation, April 15, 2024, <https://www.ntu.org/foundation/detail/tax-complexity-2024-it-takes-americans-billions-of-hours-to-do-their-taxes>.

<sup>14</sup> Canada Revenue Agency, “Taxpayer Bill of Rights,” February 23, 2023, <https://www.canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/taxpayer-bill-rights.html>.

<sup>15</sup> The National Taxpayer Advocate, “2023 Annual Report to Congress,” March 20, 2024, <https://www.taxpayeradvocate.irs.gov/reports/2023-annual-report-to-congress/full-report/>.

prominently explain the consequences of failing to respond within 60 days.”<sup>16</sup> Furthermore, what qualifies as a “math error” may be surprising to many taxpayers, because the IRS’s authority in this area goes well beyond notifying filers of simple mistakes in arithmetic.

Another example is the IRS’s Identity Theft Victim Assistance (IDTVA), which was created to help taxpayers resolve their identity theft issues. According to the Taxpayer Advocate Service, victims of tax-related ID theft working with the IDTVA, on average, wait about a year and a half for the IRS to process their returns and issue refunds.<sup>17</sup>

While problems like these are typically discussed in customer service terms, they have serious implications on taxpayer rights. Indeed, the first right listed in the Taxpayer Bill of Rights is “the right to be informed.”

## Tax Administration and Collection Concerns

While the tax code has many systems in place that are designed to protect taxpayers from abusive tax administration and collection practices, these systems do not often work as intended. For example, the Taxpayer Bill of Rights includes a right to “appeal an IRS decision in an independent forum,” which was the impetus for establishing the IRS Independent Office of Appeals in 2019. However, five years after the office was created, the Taxpayer Advocate Service has highlighted several ongoing problems with the IRS appeals process, including the use of vague, undisclosed nationwide settlement parameters that prevent Appeals Officers from reaching settlements with taxpayers if the settlement deviates from such parameters.<sup>18</sup> And, in some cases, the attorneys from the IRS Office of Chief Counsel and Compliance are invited to appeals hearings, even over the objections of taxpayers, undermining the independence and impartiality of the proceedings.<sup>19</sup> The Treasury Inspector General for Tax Administration (TIGTA) found that many taxpayers filing appeals were not being given timely access to their compliance case files.<sup>20</sup>

While the IRS offers several alternative dispute resolution (ADR) programs designed to expedite the appeals and litigation processes for taxpayers, those programs have gone woefully underutilized. According to a 2022 report from the Government Accountability Office (GAO), ADR programs are used in less than one-half of one percent of all cases handled by the Independent Office of Appeals between 2013 and 2022.<sup>21</sup> Although the IRS does not know definitively why ADR is underutilized, GAO’s report states that IRS officials believe it is due to taxpayers not perceiving the benefits of using the procedure. The Independent Office of Appeals recently announced the formation of a new ADR program management office, intended to make the programs “more attractive and accessible for all eligible parties.”<sup>22</sup>

<sup>16</sup> The National Taxpayer Advocate, “2023 Annual Report to Congress,” March 20, 2024, <https://www.taxpayeradvocate.irs.gov/reports/2023-annual-report-to-congress/full-report/>.

<sup>17</sup> Internal Revenue Service, “IRS identity theft victim assistance: How it works,” May 16, 2024, <https://www.irs.gov/individuals/how-irs-id-theft-victim-assistance-works>.

<sup>18</sup> The National Taxpayer Advocate, “2023 Annual Report to Congress,” March 20, 2024, <https://www.taxpayeradvocate.irs.gov/reports/2023-annual-report-to-congress/full-report/>.

<sup>19</sup> The National Taxpayer Advocate, “2022 Annual Report to Congress,” February 6, 2023, [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_09\\_Appeals.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_09_Appeals.pdf).

<sup>20</sup> Treasury Inspector General for Tax Administration, “Actions Have Been Taken to Implement Taxpayer First Act Provisions Related to the IRS Independent Office of Appeals; However, Some Improvements Are Still Needed,” February 10, 2023, <https://www.oversight.gov/sites/default/files/oig-reports/TIGTA/202315010fr.pdf>.

<sup>21</sup> United States Government Accountability Office, “IRS Could Better Manage Alternative Dispute Resolution Programs to Maximize Benefits,” May, 2023, <https://www.gao.gov/assets/d23105552.pdf>.

<sup>22</sup> Internal Revenue Service, “IRS Independent Office of Appeals forms Alternative Dispute Resolution Program Management Office,” April 24, 2024, Internal Revenue Service, “IRS Independent Office of Appeals forms Alternative Dispute Resolution Program Management Office,” April 24, 2024, <https://www.irs.gov/newsroom/irs-independent-office-of-appeals-forms-alternative-dispute-resolution-program-management-office>.



## Oversight Challenges

Many offices and actors have oversight responsibilities within the IRS to safeguard taxpayer rights. The National Taxpayer Advocate has a proactive role, acting in many ways as the taxpayers' representative in both policymaking and enforcement. However, her power is limited. The Taxpayer Advocate Service's annual reports and frequent publications often include powerful statements on abuses and inequities in the tax system, but there is no established requirement for the IRS to implement – or even explain its decisions not to implement – its recommendations. Similarly, while the Taxpayer Advocate Service's annual reports include detailed legislative recommendations to Congress, there is no mechanism in place to ensure these suggestions are seriously considered. In 2021, GAO recommended that the Taxpayer Advocate Service publish updates on the IRS actions taken, partially taken, or not taken in response to Taxpayer Advocate Service recommendations to address the most serious problems identified in its annual report, but the Taxpayer Advocate Service has not yet fully implemented GAO's recommendation.<sup>23</sup>

Federal watchdogs like TIGTA and GAO also play major roles in protecting taxpayer rights. However, their work is predominantly reactive, addressing the needs of taxpayers only after problems are discovered. And, as with the Taxpayer Advocate Service, there is no means to ensure their recommendations for policy changes ever take effect, limiting their effectiveness in driving systemic improvements. In 1998, the IRS Restructuring and Reform Act established the IRS Oversight Board to provide expert guidance in overseeing the IRS, but it has been suspended since 2015 due to lack of quorum.<sup>24</sup>

The IRS also receives input from several advisory and advocacy organizations. These include the Electronic Tax Administration Advisory Committee (ETAAC), the Internal Revenue Service Advisory Council (IRSAC), and the Taxpayer Advocacy Panel (TAP). However, the IRS seemingly did not seek input from ETAAC and IRSAC prior to publication of its Strategic Operating Plan.<sup>25</sup>

## Ideas for Action to Better Protect Taxpayer Rights

While significant strides have been made to better protect taxpayer rights, there is more progress to be made. As the IRS implements new policies, practices, and technologies with the expanded resources provided by the IRA, it is essential that these efforts are undertaken with a strong commitment to safeguarding taxpayer rights. Informed by insights from the experts on the Taxpayer FIRST Advisory Board, we propose the following ideas for action:

**1. Elevate the Importance of Taxpayer Rights in Federal Law and in IRS Publications, Website, and Physical Locations.** Both the legislative and the executive branch should take formal steps to raise the profile of taxpayer rights in tax administration and enforcement. For starters, Congress should move the Taxpayer Bill of Rights to Section 1 of the Internal Revenue Code and take steps to make its provisions more enforceable.

In preceding reports, NTUF offered recommendations to improve customer service.<sup>26</sup> These efforts – often highlighted in public statements and disclosures like the Strategic Operating Plan – also have major implications for taxpayer rights, including several that are outlined in the Taxpayer Bill of Rights. For example, utilizing better metrics to assess the effectiveness of the IRS's telephone services directly supports the taxpayers' right to be informed and to receive quality service. Proposals to upgrade digital filing and processing technologies – while usually referenced in

<sup>23</sup> Government Accountability Office, "Opportunities Exist to Improve Reports to Congress," June 16 2024, <https://www.gao.gov/products/gao-21-217>.

<sup>24</sup> Pete Sepp, "I'm the President of the National Taxpayers Union. Be Careful With I.R.S. Reform.," New York Times, October 18, 2021, <https://www.nytimes.com/2021/10/18/opinion/tax-irs-reform.html>.

<sup>25</sup> Pete Sepp, "Compliance Should Be IRS Goal, Not 'Enforcement,'" May 16, 2023, <https://www.ntu.org/publications/detail/compliance-should-be-irs-goal-not-enforcement>.

<sup>26</sup> Bryan Hickman and Joe Bishop-Henchman, "Call to Action: Crafting a New Taxpayer Service Experience," May 23, 2024, <https://www.ntu.org/foundation/detail/call-to-action-crafting-a-new-taxpayer-service-experience>.

customer service discussions – also impact the right to quality service. Similarly, ensuring more timely resolution of identity theft cases – by providing adequate staff and resources in addition to updating relevant systems – supports taxpayers’ rights to finality and privacy. Going forward, the administration should acknowledge these connections and proactively integrate objectives relating to taxpayer rights into each relevant section of its Strategic Operating Plan.

Since its introduction, the IRS has taken steps to raise awareness of the Taxpayer Bill of Rights. Taxpayers can scroll to the bottom of each page on IRS.gov to find the “Know Your Rights” section. This could be more prominently displayed on the front page, and the IRS could also ensure that the Taxpayer Bill of Rights is prominently displayed at in-person Taxpayer Assistance Centers (TACs) and Low-Income Tax Clinics. In addition, tax services provided by outside organizations in partnership with the IRS, such as the free tax filing services offered by the Free File Alliance, could also be required to promote the Taxpayer Bill of Rights through web links or explanatory language.

**2. Revise IRS Notices to Provide Explanations of Taxpayer Rights.** While the Strategic Operating Plan outlines a new approach to issuing IRS notices aimed at clarity, any such changes should prioritize taxpayer rights above mere simplicity and brevity. Former Taxpayer Advocate Nina Olson recently noted:

Past efforts at notice clarification have resulted in the IRS prioritizing enforcement messages over information providing explanations of avenues of relief and taxpayer rights. Important information about access to judicial review, the Taxpayer Advocate Service, and LITCs have been relegated to the second or third pages of notices. Further, as noted earlier, mere simplification (in contrast to plain language standards) may result in incorrect guidance.<sup>27</sup>

An approach that better incorporates taxpayer rights would emphasize taxpayer access to due process as well as information about assistance options. For example, the Taxpayer Advocate Service has recommended that Congress require the IRS to include specific details about any errors and clear explanations of not responding to notices of mathematical error.<sup>28</sup> Both Congress and the IRS should revisit existing notice policies and incorporate these types of changes. Legislation has been introduced that would require math error notices to include more information,<sup>29</sup> and the IRS has recently launched its IRA-funded Simple Notice Initiative which aims to redesign hundreds of the most common notices.<sup>30</sup> Yet more work is needed to ensure these reforms are completed.

**3. Provide Accountability in the Penalty Process.** The IRS is directed by federal law to assess penalties on taxpayers who fail to file or pay. Ensuring that penalties are only assessed through appropriate and legally clear processes provides taxpayers with protection of the final right in the Taxpayer Bill of Rights, the right to a fair and just tax system. The law requires IRS employees to obtain approval from their supervisor in order to assess some penalties but is not specific as to the timing when supervisory approval is required.<sup>31</sup> To provide accountability in this process, supervisory approval should be secured prior to communicating the penalty to taxpayers.<sup>32</sup>

<sup>27</sup> Nina E. Olson, “Statement of Nina E. Olson From Hearing on Oversight of the Internal Revenue Service Before the Subcommittee on Government Operations and the Federal Workforce And the Subcommittee on Health Care and Financial Services Committee on Oversight and Accountability United States House of Representatives,” 118th Congress, 24 October, 2024, <https://www.congress.gov/118/meeting/house/116501/documents/HHRG-118-GO27-20231024-SD007.pdf>.

<sup>28</sup> The National Taxpayer Advocate, “2024 Purple Book,” March 20, 2024, <https://www.taxpayeradvocate.irs.gov/reports/2023-annual-report-to-congress/national-taxpayer-advocate-2024-purple-book/>.

<sup>29</sup> “Cassidy, Warren Introduce Legislation to Simplify IRS Notices, Help Taxpayers,” Bill Cassidy, M.D. U.S. Senator for Louisiana, April 22, 2024, <https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-warren-introduce-legislation-to-simplify-irs-notices-help-taxpayers/>.

<sup>30</sup> IRS, “IRS launches Simple Notice Initiative redesign effort,” January 23, 2024, <https://www.irs.gov/newsroom/irs-launches-simple-notice-initiative-redesign-effort>.

<sup>31</sup> The National Taxpayer Advocate, “2024 Purple Book,” March 20, 2024, [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_PurpleBook\\_04\\_ReformPenInts\\_33.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_PurpleBook_04_ReformPenInts_33.pdf).

<sup>32</sup> Pete Sepp, Joe Bishop-Henchman, and Lindsey Carpenter, “Fire, Aim, Ready’: The IRS’s Proposal For New Tax Penalties,” July 12, 2023, <https://www.ntu.org/publications/detail/fire-aim-ready-the-irss-proposal-for-new-tax-penalties>.



**4. Ensure the Independence of the Office of Appeals.** The right to an independent review of any tax penalty or assessment is an essential right for all taxpayers. To preserve that right, Congress and the IRS should ensure the Independent Office of Appeals makes its decisions without undue influence. One step, recommended by the Taxpayer Advocate Service, is to require taxpayers' consent before allowing IRS attorneys or agents to participate in a conference at the Office of Appeals and avoid turning a settlement conference into an adversarial or mediation forum.<sup>33</sup> Legislation has been introduced in the House of Representatives to require taxpayer consent for participation in these meetings.<sup>34</sup> Members of Congress have also proposed prohibiting ex parte communications between the Office of Appeals and other IRS employees regarding any pending proceedings.<sup>35</sup> These types of reforms would help ensure a fair and unbiased appeals process for taxpayers.

**5. Strengthen the Taxpayer Advocate's Flexibility.** Expanding the power and authority of the Taxpayer Advocate Service would improve oversight of the IRS and reinforce the protection of taxpayer rights. For example, Congress should consider expanding the Taxpayer Advocate Service's role in the regulatory process. Members of Congress have introduced legislation to require the Treasury to formally seek the Taxpayer Advocate Service's comment on how any new regulations might affect taxpayer rights prior to their publication.<sup>36</sup> In addition, the Taxpayer Advocate Service has recommended that Congress pass legislation to explicitly allow the Taxpayer Advocate Service to hire legal counsel, make independent personnel decisions, and file *amicus* briefs in court proceedings. Any policy change that would require greater participation from the Taxpayer Advocate Service in IRS rulemaking or grant the office greater independence and flexibility would amplify the voice of taxpayers in the IRS's administration efforts.

## Conclusion

Despite frequent criticism of its inefficiencies and shortcomings, the IRS continues to wield enormous power over the lives and livelihoods of taxpayers. While some of the arguments about the intended impact of the IRA were overstated, there must be oversight in the IRS's reform efforts from experts, advocates, and, of course, individual taxpayers. The success of its transformation efforts hinges on the reinforcement of taxpayer rights.

Moving forward, both Congress and the IRS should make taxpayer rights a central focus in all aspects of tax administration. That means doing more than making informal and aspirational statements of policy and adopting substantive reforms to ensure taxpayers are well-informed and have ample opportunities to review, challenge, and appeal IRS decisions in appropriate venues with due process. With that as their focus, policymakers can take real steps to ensure taxpayer protections are not an afterthought but a cornerstone of U.S. tax policy.

<sup>33</sup> The National Taxpayer Advocate, "2024 Purple Book," March 20, 2024, <https://www.taxpayeradvocate.irs.gov/reports/2023-annual-report-to-congress/national-taxpayer-advocate-2024-purple-book/>.

<sup>34</sup> "Legislation to Strengthen Taxpayer Rights Introduced by Congresswoman Monica De La Cruz," Congresswoman Monica De La Cruz, November 9, 2023, <https://delacruz.house.gov/news/documentsingle.aspx?DocumentID=453>.

<sup>35</sup> Sen. John Cornyn (R-TX), "S.1177 - Small Business Taxpayer Bill of Rights Act of 2023," 118th Congress, April 18, 2023, <https://www.congress.gov/bill/118th-congress/senate-bill/1177>.

<sup>36</sup> Rep. Joe Neguse (D-CO), "H.R.3789 - CLEAR Act of 2023," 118th Congress, June 1, 2023, <https://www.congress.gov/bill/118th-congress/house-bill/3789>.

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