

Home and Business Legal Encyclopedia Comment: Taxpayers have rights too! And here they are. This is a revolutionary document! Enjoy learning your rights. /

YOUR RIGHTS AS A TAXPAYER

As a taxpayer, you have the right to be treated fairly, professionally, promptly, and courteously by Internal Revenue Service employees. Our goal at the IRS is to make sure that your rights are protected, so that you will have the highest confidence in the integrity, efficiency, and fairness of our tax system. To ensure that you always receive such treatment, you should know about the many rights you have at each step of the tax process.

Free Information and Help in Preparing Returns

You have the right to information and help in complying with the tax laws. In addition to the basic instructions we provide with the tax forms, we make available a great deal of other information.

Taxpayer publications. We publish over 100 free taxpayer information publications on various subjects. One of these, Publication 910, Guide to Free Tax Services, is a catalog of the free services we offer. You can order these publications and any tax forms or instructions you need by calling us toll-free at 1-800-424-FORM (3676).

Other assistance. We also provide walk-in tax help at many IRS offices, and recorded telephone information on many topics (through our Tele-Tax system). The telephone numbers for Tele-Tax, and the topics covered, are in the tax forms instructions. We make many of our materials available in Braille (at regional libraries for the handicapped) and in Spanish. We provide assistance for the hearing impaired via special telephone equipment.

We have produced informational videotapes that you can borrow. In addition, you may want to attend our educational programs for specific groups of taxpayers, such as farmers and those with small businesses. In cooperation with local volunteers, we offer free tax return preparation assistance to low-income and elderly taxpayers through Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) Programs. You can get information on these programs by calling the toll-free telephone number for your area listed at the end of this publication.

Copies of tax returns. If you need a copy of your tax return for an earlier year, you can get one by filling out Form 4506, Request for Copy of Tax Form, and paying a small fee.

However, you often only need certain information, such as the amount of your reported income, the number of your exemptions, and the tax shown on the return. You can get this information free if you write or visit an IRS office, or call the toll-free

number for your area listed at the end of this publication.

If you have trouble clearing up any tax matter with the IRS through normal channels, you can get special help from our Problem Resolution Office, as explained later.

Privacy and Confidentiality

You have the right to have your personal and financial information kept confidential. You also have the right to know why we are asking you for information, exactly how any information you give will be used, and what might happen if you do not give the information.

Information sharing. Under the law, we may share your tax information with State tax agencies with which we have information exchange agreements, the Department of Justice and other federal agencies under strict legal guidelines, and certain foreign governments under tax treaty provisions.

Courtesy and Consideration

You are entitled to courteous and considerate treatment from IRS employees at all times. If you ever feel that you are not being treated with fairness, courtesy, and consideration by an IRS employee, you should tell the employee's supervisor.

Payment of Only the Required Tax

You have the right to plan your business and personal finances in such a way that you will pay the least tax that is due under the law. You are liable only for the correct amount of tax. Our purpose is to apply the law consistently and fairly to all taxpayers.

Fairness if Your Return is Examined

Most taxpayers' returns are accepted as filed. But if your return is selected for examination, it does not suggest that you are dishonest. The examination may or may not result in more tax. Your case may be closed without change. Or, you may receive a refund.

Arranging the examination. Many examinations are handled entirely by mail. For information on this, get Publication 1383, The Correspondence Process (Income Tax Accounts), available free by calling 1-800-424-FORM (3676). If we notify you that your examination is to be conducted through a face-to-face interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If the time or place suggested by the IRS is not convenient, the examiner will try to work out something more suitable. However, in any case, the IRS makes the final determination of how, when and where the examination will take place.

Representation. Throughout the examination, you may represent yourself, have someone else accompany you, or, with proper written authorization, have someone represent you in your absence.

Recordings. You may make a sound recording of the examination if you wish, provided you let the examiner know in advance so that he or she can do the same.

/* That's a very good idea! */

Repeat examinations. We try to avoid repeat examinations of the same items, but this sometimes happens. If we examined your tax return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so that we can see if we should discontinue the repeat examination.

Explanation of changes. If we propose any changes to your return, we will explain the reasons for the changes. It is important that you understand the reasons for any proposed change. You should not hesitate to ask about anything that is unclear to you.

Interest. You must pay interest on additional tax that you owe. The interest is figured from the due date of the return. But if our error caused a delay in your case, and this was grossly unfair, you may be entitled to a reduction in the interest. Only delays caused by procedural or mechanical acts that do not involve the exercise of judgment or discretion qualify. If you think we caused such a delay, please discuss it with the examiner and file a claim.

Business taxpayers. If you are in an individual business, the rights covered in this publication generally apply to you. If you are a member of a partnership or a shareholder in a small business corporation, special rules (which may be different from those described here) may apply to the examination of your partnership or corporation items. The examination of partnership items is discussed in Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund. The rules for regular corporations are covered in Publication 542, Tax Information on Corporations. The rules for S corporations are described in Publication 589, Tax Information on S Corporations. You can get these publications free by calling us at 1-800-424-FORM (3676).

An Appeal of the Examination Findings

If you do not agree with the examiner's report, you may meet with the examiner's supervisor to discuss your case further. If you still don't agree with the examiner's findings, you have the right to appeal them. The examiner will explain your appeal rights and will give you a copy of Publication 5, Appeal Rights and Preparation of Protests for Unagreed Cases. This publication explains your appeal rights in detail and tells you exactly what to do if you want to appeal. You can get it by calling us

tollfree at 1-800-424-FORM (3676).

/* Be sure that if you want to file an appeal that you do it at the proper time. There are time limits, and a good appeal may be lost because of a delay.*/

Appeals Office. You can appeal the findings of an examination within the IRS through our Appeals Office. Most differences can be settled through this appeals system without expensive and time-consuming court trials. If the matter cannot be settled to your satisfaction in Appeals, you can take your case to court.

Appeals to the courts. Depending on whether you first pay the disputed tax, you can take your case to the U.S. Tax Court, the U.S. Claims Court, or your U.S. District Court. These courts are entirely independent of the IRS. As always, you can represent yourself or have someone admitted to practice before the court represent you.

If you disagree about whether you owe additional tax, you generally have the right to take your case to the Tax Court if you have not yet paid the tax. Ordinarily, you have 90 days from the time we mail you a formal notice (called a "notice of deficiency") telling you that you owe additional tax to file a petition with the Tax Court.

If you have already paid the disputed tax in full and filed a claim for refund for it that we disallowed (or on which we did not take action within 6 months), then you may take your case to the U.S. District Court or U.S. Claims Court.

Recovering litigation expenses. If the court agrees with you on most issues in your case, and finds the IRS's position to be largely unjustified, you may be able to recover some of your litigation expenses from us. But to do this, you must have used up all the administrative remedies available to you within the IRS, including going through our Appeals system.

Publication 556, Examination of Returns, Appeals Rights, and Claims for Refund, will help you more fully understand your appeal rights. You can get it free by calling us at 1-800-424-FORM (3676).

Fair Collection of Tax

Whenever you owe tax, we will send you a bill. Be sure to check any bill you receive to make sure it is correct. You have the right to have your bill adjusted if it is incorrect, so you should let us know about an incorrect bill right away.

If we tell you that you owe tax because of a math or clerical error on your return, you have the right to ask us to send you a formal notice (a "notice of deficiency") so that you can dispute the tax, as discussed earlier. You do not have to pay the additional tax when you ask us for the formal notice, if you ask for it within 60 days of the time we tell you of the error.

/* Read this part above very carefully. DO NOT pay a bill that you get from the IRS unless you are sure that it is right. Be sure that you made your objection, and IN TIME. To be sure that you filed it on time, make sure that you get a receipt from the post office showing that you mailed the protest. CALLING doesn't work- in writing, and with a receipt. */

If the tax is correct, we will give you a specific period of time to pay the bill in full. If you pay the bill within the time allowed, we will not have to take any further action.

Payment arrangements. You should make every effort to pay your bill in full. However, if you can't, you should pay as much as you can and contact us right away. In order to make other payment arrangements with you, we may ask you for a complete financial statement to determine how you can pay the amount due. You may qualify for an installment agreement based on your financial condition, or we may arrange for your employer to deduct amounts from your pay to be sent to us. We will give you copies of all agreements you make with us.

Only after we have tried to contact you and given you the chance to pay any tax due voluntarily, do we take any enforcement action (such as recording a tax lien, or levying on or seizing property). Therefore, it is very important for you to respond right away to our attempts to contact you (by mail, telephone, or personal visit). If you do not respond, we may have no choice but to begin enforcement.

/* If you visit or call on the telephone, be sure to write as well, and get a receipt for mailing! */

Release of liens. If we have to place a lien on your property (to secure the amount of tax due), you can expect us to release the lien promptly when you pay the tax and certain charges.

Property that is exempt from levy. If we must seize (levy on) your property, you have the legal right to keep:

- A limited amount of personal belongings, clothing, furniture and business or professional books and tools.
- Unemployment, worker's compensation, and certain pension benefits.
- Court-ordered child support payments.
- Mail.
- An amount of wages, salary, and other income (\$75 per week, plus \$25 for each legal dependent).

If at any time during the collection process you do not agree with the collection employee, you can discuss your case with his or her supervisor.

Access to your private premises. A court order is not generally needed for a collection employee to seize your property. However, you don't have to allow the employee access to your private premises, such as your home or the non-public area of your business, if the employee does not have court authorization to be there.

Withheld taxes. If we believe that you were responsible for seeing that a corporation paid us income and social security taxes withheld from its employees, and the taxes were not paid, we may look to you to personally pay an amount based on the unpaid taxes. If you feel that you don't owe this, you have the right to discuss the case with the collection employee's supervisor. Also, you generally have the same IRS appeal rights as other taxpayers. Because the Tax Court has no jurisdiction in this situation, you must pay at least part of the withheld taxes and file a claim for refund in order to take the matter to the U.S. District Court or U.S. Claims Court.

Publication 586A, The Collection Process (Income Tax Accounts), and 594, The Collection Process (Employment Tax Accounts), will help you understand your rights during the collection process. You can get these publications free by calling us at 1-800-424-FORM (3676).

The Collection Process

To stop the process at any stage, you should pay the tax in full. If you cannot pay the tax in full, contact us right away to discuss possible ways to pay the tax.

First notice and demand for unpaid tax.

10 days later.

Enforcement authority arises.

Up to 3 more notices sent over a period of time asking for payment.

Notice of intent to levy is sent by certified mail (final notice).

10 days later.

Enforcement action to collect the tax begins (lien, levy, seizure, etc.)

Refund of Overpaid Tax

Once you have paid all your tax, you have the right to file a claim for a refund if you think the tax is incorrect. Generally, you have 3 years from the date you filed the return or 2 years from the date you paid the tax (whichever is later) to file a claim. If we examine your claim for any reason, you have the same

rights that you would have during an examination of your return.

Interest on refunds. You will receive interest on any income tax refund delayed more than 45 days after the later of either the date you filed your return or the date your return was due.

Checking on your refund. Normally, you will receive your refund about six weeks after you file your return. If you have not received your refund in 8 weeks after mailing your return, you may check on it by calling the toll-free Tele-Tax number in the tax forms instructions.

If your refund is reduced because of a debt you owe another Federal agency or because you owe child support, we must notify you that this has occurred. However, if you have a question about the debt that caused the reduction, you should contact the other agency.

Cancellation of Penalties

You have the right to ask that certain penalties (but not interest) be canceled (abated) if you can show reasonable cause for the failure that led to the penalty (or can show that you exercised due diligence, if that is the applicable standard for that penalty).

If you relied on wrong advice given to you by IRS employees on the toll-free telephone system, we will cancel certain penalties that may result. But you have to show that your reliance on the advice was reasonable.

/* It is revolutionary that the IRS recognizes that it makes goofs and it is its responsibility to fix them. */

Special Help to Resolve Your Problems

We have a Problem Resolution Program for taxpayers who have been unable to resolve their problems with the IRS. If you have a tax problem that you cannot clear up through normal channels, write to the Problem Resolution Office in the district or Service Center with which you have the problem. You may also reach the Problem Resolution Office by calling the IRS taxpayer assistance number for your area listed at the end of this publication. If the tax problem is causing or will cause you significant hardship, the Problem Resolution Officer will arrange for an immediate review of your problem. During the review, we will not take any enforcement action.

Taxpayer Assistance Numbers

You should use the following telephone numbers in getting answers to your tax questions.

You may also use these numbers to reach the Problem Resolution Office if you need special help in resolving problems that you have not been able to resolve through normal IRS channels. Ask

for the problem Resolution Office when you call.