

105TH CONGRESS
1ST SESSION

S. 1308

To amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 1997

Mr. BREAU (for himself and Mr. KERREY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Taxpayer Protection
5 Act of 1997”.

1 **SEC. 2. ESTABLISHMENT OF MORE INDEPENDENT OFFICE**
 2 **OF THE TAXPAYER ADVOCATE.**

3 (a) IN GENERAL.—Paragraph (1) of section 7802(d)
 4 of the Internal Revenue Code of 1986 (relating to Office
 5 of Taxpayer Advocate) is amended to read as follows:

6 “(1) ESTABLISHMENT.—

7 “(A) IN GENERAL.—There is established in
 8 the Internal Revenue Service an office to be
 9 known as the ‘Office of the Taxpayer Advocate’.

10 “(B) NATIONAL TAXPAYER ADVOCATE.—

11 “(i) IN GENERAL.—The Office of the
 12 Taxpayer Advocate shall be under the su-
 13 pervision and direction of an official to be
 14 known as the ‘National Taxpayer Advo-
 15 cate’. The National Taxpayer Advocate
 16 shall report directly to the Commissioner
 17 of Internal Revenue and shall be entitled
 18 to compensation at the same rate as the
 19 highest level official reporting directly to
 20 the Commissioner of the Internal Revenue
 21 Service.

22 “(ii) APPOINTMENT.—The National
 23 Taxpayer Advocate shall be appointed by
 24 the President, by and with the advice and
 25 consent of the Senate, from among individ-
 26 uals with a background in customer serv-

ice, as well as tax law. No officer or employee of the Internal Revenue Service may be appointed to such position in order to ensure an independent position to represent taxpayers' interests.”.

(b) ANNUAL REPORTS AND ADDITIONAL RESPONSIBILITIES.—Section 7802(d)(2) of the Internal Revenue Code of 1986 (relating to functions of office) is amended by striking subparagraph (B) and inserting the following:

“(B) ANNUAL REPORTS.—

“(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

“(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the

1 House of Representatives and the Commit-
2 tee on Finance of the Senate on the activi-
3 ties of the Office of the Taxpayer Advocate
4 during the fiscal year ending during such
5 calendar year. Any such report shall con-
6 tain full and substantive analysis, in addi-
7 tion to statistical information, and shall—

8 “(I) identify the initiatives the
9 Office of the Taxpayer Advocate has
10 taken on improving taxpayer services
11 and Internal Revenue Service respon-
12 siveness,

13 “(II) contain recommendations
14 received from individuals with the au-
15 thority to issue Taxpayer Assistance
16 Orders under section 7811,

17 “(III) contain a summary of at
18 least 20 of the most serious problems
19 encountered by taxpayers, including a
20 description of the nature of such prob-
21 lems,

22 “(IV) contain an inventory of the
23 items described in subclauses (I), (II),
24 and (III) for which action has been
25 taken and the result of such action,

1 “(V) contain an inventory of the
2 items described in subclauses (I), (II),
3 and (III) for which action remains to
4 be completed and the period during
5 which each item has remained on such
6 inventory,

7 “(VI) contain an inventory of the
8 items described in subclauses (I), (II),
9 and (III) for which no action has been
10 taken, the period during which each
11 item has remained on such inventory,
12 the reasons for the inaction, and iden-
13 tify any Internal Revenue Service offi-
14 cial who is responsible for such inac-
15 tion,

16 “(VII) identify any Taxpayer As-
17 sistance Order which was not honored
18 by the Internal Revenue Service in a
19 timely manner, as specified under sec-
20 tion 7811(b),

21 “(VIII) contain recommendations
22 for such administrative and legislative
23 action as may be appropriate to re-
24 solve problems encountered by tax-
25 payers,

1 “(IX) identify areas of the tax
 2 law that impose significant compliance
 3 burdens on taxpayers or the Internal
 4 Revenue Service, including specific
 5 recommendations for remedying these
 6 problems,

7 “(X) identify the 10 most liti-
 8 gated issues for each category of tax-
 9 payers, including recommendations for
 10 mitigating such disputes, and

11 “(XI) include such other infor-
 12 mation as the National Taxpayer Ad-
 13 vocate may deem advisable.

14 “(iii) REPORT TO BE SUBMITTED DI-
 15 RECTLY.—Each report required under this
 16 subparagraph shall be provided directly to
 17 the Committees described in clauses (i)
 18 and (ii) without any prior review or com-
 19 ment from the Commissioner, the Sec-
 20 retary of the Treasury, any other officer or
 21 employee of the Department of the Treas-
 22 ury, or the Office of Management and
 23 Budget.

24 “(C) OTHER RESPONSIBILITIES.—The Na-
 25 tional Taxpayer Advocate shall—

1 “(i) monitor the coverage and geo-
 2 graphic allocation of local taxpayer advo-
 3 cates,

4 “(ii) develop guidance to be distrib-
 5 uted to all Internal Revenue Service offi-
 6 cers and employees outlining the criteria
 7 for referral of taxpayer inquiries to local
 8 taxpayer advocates,

9 “(iii) ensure that the local telephone
 10 number for the local taxpayer advocate in
 11 each Internal Revenue Service district is
 12 published and available to taxpayers, and

13 “(iv) in conjunction with the Commis-
 14 sioner, develop career paths for local tax-
 15 payer advocates choosing to make a career
 16 in the Office of the Taxpayer Advocate.”.

17 (c) NATIONAL OVERSIGHT OF LOCAL OFFICES.—
 18 Section 7802(d)(2) of the Internal Revenue Code of 1986
 19 (relating to functions of office), as amended by subsection
 20 (b), is amended by adding at the end the following:

21 “(D) PERSONNEL ACTIONS.—

22 “(i) HEADS OF LOCAL OFFICES.—The
 23 National Taxpayer Advocate shall have the
 24 responsibility to—

1 “(I) appoint and dismiss the local
 2 taxpayer advocate heading the office
 3 of the taxpayer advocate at each In-
 4 ternal Revenue Service district office
 5 and service center, and

6 “(II) evaluate and take personnel
 7 actions with respect to any employee
 8 of an office of the taxpayer advocate
 9 described in subclause (I).

10 “(ii) CONSULTATION.—The National
 11 Taxpayer Advocate may consult with the
 12 head of any Internal Revenue Service dis-
 13 trict office or service center in carrying out
 14 the National Taxpayer Advocate’s respon-
 15 sibilities under this subparagraph.”.

16 (d) OPERATION OF LOCAL OFFICES.—Section
 17 7802(d) of the Internal Revenue Code of 1986 is amended
 18 by adding at the end the following:

19 “(4) OPERATION OF LOCAL OFFICES.—

20 “(A) IN GENERAL.—Each local taxpayer
 21 advocate—

22 “(i) shall report directly to the Na-
 23 tional Taxpayer Advocate,

24 “(ii) may consult with the head of the
 25 Internal Revenue Service district office or

1 service center which the local taxpayer ad-
2 vocate serves regarding the daily operation
3 of the office of the taxpayer advocate,

4 “(iii) shall, at the initial meeting with
5 any taxpayer seeking the assistance of the
6 office of the taxpayer advocate, notify such
7 taxpayer that the office operates independ-
8 ently of any Internal Revenue Service dis-
9 trict office or service center and reports di-
10 rectly to Congress through the National
11 Taxpayer Advocate, and

12 “(iv) shall, at the taxpayer advocate’s
13 discretion, not disclose to the Internal Rev-
14 enue Service contact with, or information
15 provided by, such taxpayer.

16 “(B) MAINTENANCE OF INDEPENDENT
17 COMMUNICATIONS.—Each local office of the
18 taxpayer advocate shall maintain separate
19 phone, facsimile, and other electronic commu-
20 nication access, and a separate post office ad-
21 dress from the Internal Revenue Service district
22 office or service center which it serves.”.

23 (e) NOTICE OF RIGHT TO CONTACT OFFICE IN-
24 CLUDED IN NOTICE OF DEFICIENCY.—Section 6212(a) of
25 the Internal Revenue Code of 1986 (relating to notice of

1 deficiency) is amended by adding at the end the following:
 2 “Such notice shall include a notice to the taxpayer of the
 3 taxpayer’s right to contact a local office of the taxpayer
 4 advocate and the location and phone number of the near-
 5 est office.”.

6 (f) EXPANSION OF AUTHORITY TO ISSUE TAXPAYER
 7 ASSISTANCE ORDERS.—Section 7811(a) of the Internal
 8 Revenue Code of 1986 (relating to taxpayer assistance or-
 9 ders) is amended—

10 (1) by striking “Upon application” and insert-
 11 ing the following:

12 “(1) IN GENERAL.—Upon application”,

13 (2) by moving the text 2 ems to the right, and

14 (3) by adding at the end the following new
 15 paragraph:

16 “(2) DETERMINATION OF HARDSHIP.—For pur-
 17 poses of determining whether a taxpayer is suffering
 18 or about to suffer a significant hardship, the Na-
 19 tional Taxpayer Advocate should consider—

20 “(A) whether the Internal Revenue Service
 21 employee to which such order would issue is fol-
 22 lowing applicable published administrative guid-
 23 ance, including the Internal Revenue Manual,

24 “(B) whether there is an immediate threat
 25 of adverse action,

1 “(C) whether there has been a delay of
2 more than 30 days in resolving taxpayer ac-
3 count problems, and

4 “(D) the prospect that the taxpayer will
5 have to pay significant professional fees for rep-
6 resentation.”.

7 (g) CONFORMING AMENDMENTS.—

8 (1) The following provisions of the Internal
9 Revenue Code of 1986 are each amended by striking
10 “Taxpayer Advocate” each place it appears and in-
11 serting “National Taxpayer Advocate”:

12 (A) Section 6323(j)(1)(D) (relating to
13 withdrawal of notice in certain circumstances).

14 (B) Section 6343(d)(2)(D) (relating to re-
15 turn of property in certain cases).

16 (C) Section 7802(d)(3) (relating to respon-
17 sibilities of Commissioner).

18 (D) Section 7811(a)(1) (relating to author-
19 ity to issue), as amended by subsection (f).

20 (E) Section 7811(b)(2)(D) (relating to
21 terms of a Taxpayer Assistance Order).

22 (F) Section 7811(c) (relating to authority
23 to modify or rescind).

24 (G) Section 7811(d)(2) (relating to sus-
25 pension of running of period of limitation).

1 (H) Section 7811(e) (relating to independ-
2 ent action of Taxpayer Advocate).

3 (I) Section 7811(f) (relating to Taxpayer
4 Advocate).

5 (2) Section 7811(d)(1) of such Code (relating
6 to suspension of running of period of limitation) is
7 amended by striking “Taxpayer Advocate’s” and in-
8 serting “National Taxpayer Advocate’s”.

9 (3) The headings of subsections (e) and (f) of
10 section 7802 of such Code are each amended by
11 striking “TAXPAYER ADVOCATE” and inserting “NA-
12 TIONAL TAXPAYER ADVOCATE”.

13 (4) The heading of section 7802 of such Code
14 is amended by striking “**TAXPAYER ADVOCATE**”
15 and inserting “**NATIONAL TAXPAYER ADVO-**
16 **CATE**”.

17 (h) TRANSITION RULES RELATING TO APPOINTMENT
18 OF NATIONAL TAXPAYER ADVOCATE.—

19 (1) INITIAL APPOINTMENT.—The President
20 shall nominate for appointment the initial National
21 Taxpayer Advocate to serve as head of the Office of
22 the Taxpayer Advocate established under section
23 7208(a) of the Internal Revenue Code of 1986 (as
24 amended by this section) not later than 120 days
25 after the date of the enactment of this Act.

1 (2) INTERIM ROLE OF CURRENT TAXPAYER AD-
2 VOCATE.—Until an individual has taken office under
3 section 7208(a) of such Code (as so amended), the
4 Taxpayer Advocate shall assume the additional pow-
5 ers and duties of the National Taxpayer Advocate
6 under the amendments made by this section.

7 (i) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of the enactment
9 of this Act.

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