

# Tax News and Industry Updates

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## Taxpayer Bill of Rights

### Cross References

- IR-2014-72, June 10, 2014

The Internal Revenue Service has compiled a list of Taxpayer Bill of Rights on their website that will become a cornerstone document to provide the nation's taxpayers with a better understanding of their rights.

The Taxpayer Bill of Rights takes the multiple existing rights embedded in the tax code and groups them into 10 broad categories, making them more visible and easier for taxpayers to find on [www.irs.gov](http://www.irs.gov).

Similar to the U.S. Constitution's Bill of Rights, the Taxpayer Bill of Rights contains 10 provisions. They are:

**1) The Right to Be Informed.** Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

**2) The Right to Quality Service.** Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

**3) 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.

**4) The Right to Challenge the IRS' Position and Be Heard.** Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

**5) 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, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

**6) The Right to Finality.** Taxpayers have the right to know the maximum amount of time they have to challenge the IRS' position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

**7) 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, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

**8) 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. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

**9) 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. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

**10) 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. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

The rights have been incorporated into a redesigned version of Publication 1, a document that is routinely included in IRS correspondence with taxpayers. Millions of these mailings go out each year. The new version has been added to [www.irs.gov](http://www.irs.gov), and print copies will start being included in IRS correspondence in the near future.



## IRS Loses Billions on Amended Returns

### Cross References

- Treasury Inspector General for Tax Administration, Report #2014-40-028, April 25, 2014

A recent report from the Treasury Inspector General for Tax Administration (TIGTA) found that the IRS needs to modernize its processing for amended tax returns to reduce erroneous refunds, processing costs, and taxpayer burden.

Taxpayers file Form 1040X, *Amended U.S. Individual Income Tax Return*, to correct previously filed income tax returns. Claims filed on an amended tax return can relate to any item of income, loss, exclusion, deduction, or credit and may result in a tax refund. The IRS only allows amended tax returns to be filed on paper. As a result, there is additional taxpayer burden and increased potential for erroneous tax refund payments.

The IRS received more than 4 million amended tax returns in fiscal year 2012. The TIGTA audit was initiated because previous audits have identified problems with IRS processes for verifying claims on amended tax returns. The objective of this audit was to determine whether the IRS has controls in place to ensure that claims for refunds on amended tax returns are appropriate.

TIGTA found that a statistical sample of 259 amended tax returns claiming tax refunds of \$500 or more in fiscal year 2012 identified 44 (17%) tax returns for which the IRS issued potentially erroneous tax refunds totaling \$103,270.

Based on the sample results, TIGTA estimates the IRS may have issued more than \$439 million in potentially erroneous tax refunds claimed on 187,421 amended returns in fiscal year 2012.

As such, the IRS could issue more than \$2.1 billion in potentially erroneous tax refunds claimed on amended tax returns over the next five years.

To reduce erroneous refunds, processing costs, and taxpayer burden, the IRS could revise Form 1040, *U.S. Individual Income Tax Return*, to allow for corrections to original tax return filings and expand e-filing to include amended tax returns. TIGTA estimates that the IRS could have potentially saved more than \$17 million in processing costs during fiscal year 2012 if it had allowed taxpayers to e-file their amended tax return.



# Backup Withholding

## Cross References

- IRC §3406
- Rev. Proc. 2014-43

A payor required to report a payment to a payee (for example: a bank required to issue a 1099-INT to a taxpayer for interest paid to the taxpayer) must deduct and withhold taxes from the payment at a rate of 28% if any of the following are true:

- The payee fails to furnish his Taxpayer Identification Number (TIN) to the payor,
- The IRS notifies the payor that the TIN furnished by the payee is incorrect,
- The IRS notifies the payor that the payee has under-reported interest or dividend income, or
- The payee fails to certify to the payor that he or she is not subject to backup withholding after the payor has been notified by the IRS that the payee is subject to backup withholding.

Once a payor has been notified by the IRS that a payee has furnished a name or TIN that does not match IRS or Social Security Administration (SSA) records, the payor must send a notice to the payee (the B notice) that describes the steps that must be taken to stop or prevent backup withholding from payments. If this is the only notification of a name/TIN mismatch received by the payor with respect to the account during the past three years, the B notice must instruct the payee to provide a signed Form W-9, *Request for Taxpayer Identification Number and Certification*, to the payor to stop or prevent backup withholding.



## GAO Finds it Easy to Fake Application for Premium Tax Credit

### Cross References

- GAO-14-705T, July 23, 2014

The United States Government Accountability Office (GAO) has testified before Congress its preliminary results of an undercover testing of enrollment controls for health care coverage and consumer subsidies under the Patient Protection and Affordable Care Act of 2010 (PPACA).

### Results of the Undercover Testing

Centers for Medicare and Medicaid Services (CMS) officials told the GAO that they have internal controls for health care coverage eligibility determinations. The GAO's undercover testing addressed processes for

identity and income verification. The following is a summary of the preliminary results.

For 12 applicant scenarios, the GAO tested for verification of an applicant's identity or citizenship/immigration status. For 11 of these 12 applications, which were made by phone and online using fictitious identities, the GAO obtained subsidized coverage. For one application, the marketplace denied coverage because the GAO's fictitious applicant did not provide a Social Security number as part of the test.

The health care act requires the marketplace to provide eligibility while identified inconsistencies between information provided by the applicant and by government sources are being resolved through submission of supplementary documentation from the applicant. For its 11 approved fictitious applicants, the GAO was directed to submit supporting documents, such as proof of income or citizenship. The GAO found the document submission and review process to be inconsistent among these applications. As of July 2014, the GAO had received notification that portions of the fake documentation sent for two enrollees had been verified as true. According to CMS, its document processing contractor is not required to authenticate documentation. The contractor told the GAO it does not seek to detect fraud and accepts documents as authentic unless there are obvious alterations. As of July 2014, the GAO continues to receive subsidized coverage for the 11 fake applications, including three applications where the GAO did not provide any requested supporting documents.

A key factor in analyzing enrollment is to identify approved applicants who put their policies in force by paying premiums. However, CMS officials stated that they do not yet have the electronic capability to identify such enrollees. As a result, CMS must rely on health insurance issuers to self-report enrollment data used to determine how much CMS owes the issuers for the income-based subsidies. Work is underway to implement such a system, according to CMS, but the agency does not have a timeline for completing and deploying it.



# IRS Identifies Five Ways to Spot Scam Phone Calls

## Cross References

- IR-2014-84, August 28, 2014

The IRS has issued a consumer alert providing taxpayers with additional tips to protect themselves from telephone scam artists calling and pretending to be with the IRS.

These callers may demand money or may say the taxpayer has a refund due and try to trick the person into sharing private information. These con artists can sound convincing when they call. They may know a lot about the taxpayer, and they usually alter the caller ID to make it look like the IRS is calling. They use fake names and bogus IRS identification badge numbers. If the taxpayer does not answer, they often leave an “urgent” callback request.

“These telephone scams are being seen in every part of the country, and we urge people not to be deceived by these threatening phone calls,” IRS Commissioner John Koskinen said. “We have formal processes in place for people with tax issues. The IRS respects taxpayer rights, and these angry, shake-down calls are not how we do business.”

The IRS reminds people that they can know pretty easily when a supposed IRS caller is a fake. Here are five things the scammers often do but the IRS will not do. Any one of these five things is a tell-tale sign of a scam. The IRS will never:

- 1) Call a taxpayer about taxes owed without first mailing an official notice.
- 2) Demand that a taxpayer pay taxes without giving him or her the opportunity to question or appeal the amount they say is owed.
- 3) Require a taxpayer to use a specific payment method for the payment of taxes, such as a prepaid debit card.
- 4) Ask for credit or debit card numbers over the phone.
- 5) Threaten to bring in local police or other law-enforcement groups to have the taxpayer arrested for not paying.

If a taxpayer gets a phone call from someone claiming to be from the IRS and asking for money, here’s what he or she should do:

- If the taxpayer knows he or she owes taxes, or thinks he or she might owe, call the IRS at 1-800-829-1040. The IRS workers can help with a payment issue.
- If the taxpayer knows he or she does not owe taxes, or has no reason to believe that he or she does, report the incident to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484 or at [www.tigta.gov](http://www.tigta.gov).
- If a taxpayer has been targeted by a scam, also contact the Federal Trade Commission and use their “FTC Complaint Assistant” at [FTC.gov](http://FTC.gov). Please add “IRS Telephone Scam” to the comments of the complaint.

The IRS does not use unsolicited email, text messages or any social media to discuss personal tax issues. For more information on reporting tax scams, go to [www.irs.gov](http://www.irs.gov) and type “scam” in the search box.

