

FINAL BILL REPORT

SHB 1401

C 142 L 91
Synopsis As Enacted

Brief Description: Enacting the Washington taxpayers' rights and responsibilities act.

By Committee on Revenue. (Originally sponsored by Representatives Wang, Wynne, Ballard, D. Sommers, Winsley, Cooper, Vance, Mielke, Van Luven, Moyer, Miller, Brumsickle, Bowman, Horn, Paris, May, Betrozoff, Inslee, R. Meyers, Pruitt, Zellinsky, Bray, Franklin, Ogden, Phillips, Valle, H. Myers, Rasmussen, Fraser, Sprenkle, Heavey, Scott, Tate, Dellwo, Silver, Jacobsen, Hine, Brekke and Peery; by request of Department of Revenue.)

House Committee on Revenue
Senate Committee on Ways & Means

Background: Many states recently enacted "Taxpayers' Bill of Rights" legislation. These measures specify the duties and obligations of the revenue department in conducting audits, collecting delinquent taxes, and the interest and penalties assessable on delinquent taxes. The measures also outline the rights of taxpayers in appealing assessments and seeking tax relief. Many of these measures are modeled after the federal taxpayers' bill of rights.

In Washington, the tax statutes mention certain rights, such as the right to appeal unfair tax assessments and obtain refunds. However, there is no one statute that clearly outlines the specific rights and responsibilities of taxpayers.

In 1990, proposed legislation which passed the House of Representatives and Senate Ways & Means Committee, directed the Department of Revenue (DOR) to study the rights and responsibilities of taxpayers that are currently enumerated in statute, administrative law, and department practice. DOR was to include in its report discussion of the following items:

- 1) The need for a taxpayer ombudsman for the state;
- 2) The efficacy of the power to abate tax payments under specified circumstances;

- 3) The need for clarification of the tax code to make it more understandable to the citizens;
- 4) The publications available that explain taxpayer rights and responsibilities;
- 5) The legal rights to sue and attendant responsibilities;
- 6) Consistency throughout DOR in tax collection methods;
- 7) Ways to improve voluntary compliance and uniform enforcement; and
- 8) Other issues DOR considers relevant.

Although the 1990 bill did not become law, the department did complete a study of taxpayer rights.

The Department of Revenue (DOR) assesses interest at 9 percent per year on underpaid and late taxes and pays interest at 3 percent per year on refunds of overpaid taxes.

Current law also provides for penalties on businesses that have tax liability but fail to file a return or pay taxes owed by the due date. The penalty increases from 5 percent of taxes owed for failure to pay when due up to 20 percent of taxes owed if payment is not received within 60 days of the due date. If tax is not paid within 30 days of a notice by DOR of taxes due, an additional 10 percent penalty is assessed. If DOR issues a warrant to collect the taxes, an additional 5 percent penalty applies. However, total penalties assessed may not exceed 25 percent.

Taxpayers must pay an additional 50 percent penalty if DOR can prove that failure to pay resulted from an intent to evade taxes.

Summary:

Taxpayer rights: Taxpayer rights include the right to:

- 1) Receive a written explanation of the basis for a tax deficiency assessment at the time the assessment is issued;
- 2) Rely on specific, official written advice from DOR;
- 3) Receive relief and redress when tax laws are found unconstitutional;
- 4) Receive protection from public inquiry regarding financial and business information;

- 5) Receive, upon request, clear and current tax instructions, and forms; and
- 6) Receive a prompt and independent administrative review by DOR of a decision to revoke a tax registration, and to a written determination that either sustains the revocation or reinstates the registration.

Taxpayer responsibilities: Taxpayer responsibilities include responsibilities to:

- 1) Register with the Department of Revenue;
- 2) Know tax reporting obligations;
- 3) Keep complete and accurate records of their business activities;
- 4) File accurate returns and pay taxes in a timely manner;
- 5) Ensure the accuracy of information entered on their tax returns;
- 6) Provide supporting documents when claiming refunds due;
- 7) Pay all taxes after closing a business and request cancellation of registration number; and
- 8) Respond to communications from DOR in a timely manner.

Taxpayer rights advocate: DOR must appoint a taxpayer rights advocate to increase taxpayer understanding, and to ensure that taxpayers use the policies, processes, and procedures available to them in resolving their problems.

Taxpayer services program: DOR must maintain a taxpayer services program to provide information and education to the public through direct communication, tax workshops, and publications.

Interest and penalties on underpaid and overpaid taxes: For taxes due January 1, 1992, and thereafter, the interest rate on underpaid and late taxes is changed from 9 percent to a rate that is 2 percentage points above an average of the federal short-term rate. For refunds on taxes paid after January 1, 1992, the interest rate is changed from 3 percent to a rate that is 1 percentage point above an average of the federal short-term rate. The average rate is the arithmetical average of the federal short-term rates for the months of January, April, July, and October of the preceding calendar year, rounded to the nearest percentage point. The

rates used in the calculation are those published by the United States secretary of the treasury.

The limit on penalties for businesses who fail to file returns is raised from 25 percent to 35 percent. In addition, a new negligence penalty of 10 percent is applied to those taxpayers who receive written instructions for future reporting of taxes and ignore the instructions. Specific written instructions by DOR must clearly indicate that failure to comply with the instructions may result in penalties. The negligence penalty may not be applied to taxpayers who are appealing their assessments.

DOR may not impose both the evasion penalty and the negligence penalty to the same tax amount. The negligence penalty may not be applied to taxpayers who have made a good faith effort to comply with DOR's specific written instructions.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	46	2
House	98	0

Effective: July 28, 1991
 January 1, 1992 (Sections 9 - 11)