

H.R. 3220, the Preserving Taxpayers' Rights Act

Section-by-Section Summary

Section 1. Short Title, Etc.

Names the bill The Preserving Taxpayers' Rights Act.

Section 2. Ensuring Taxpayer Right to Appeal

This section provides a statutory right for a taxpayer to have its case reviewed by the Internal Revenue Service Office of Appeals ("Appeals") prior to the issuance of the notice of deficiency ("90-day letter").

This section provides that a 90-day letter shall not be issued unless the taxpayer has first received a letter of proposed deficiency ("30-day letter") that explains the basis for the proposed adjustment and provides the taxpayer the opportunity to request a hearing with Appeals.

The Secretary of the Treasury ("Secretary") is authorized to limit access to Appeals in cases involving identified frivolous tax positions.

An exception is provided for cases designated for litigation, subject to new conditions on designating cases for litigation.

This section requires the IRS to issue a 30-day letter in any case where 60 days or less remain on the statute of limitations provide the taxpayer simultaneously agrees to extend the statute for a period of 12 months.

Section 3. Appeals Dispute Resolution Procedures

This section allows the Secretary to issue regulations for taxpayers to request consideration by Appeals of issues included in a 30-day or 90-day letter regardless of whether the taxpayer has filed a petition in Tax Court, a claim for refund, or a suit in district court or the United States Court of Federal Claims.

Exceptions are provided for frivolous tax positions or cases designated for litigation.

Section 4. Restriction on Secretarial Authority to Designate Cases for Litigation

This section restricts the circumstances under which the IRS can designate a case for litigation to listed transactions. It also restricts the ability of the IRS to offer settlement terms that preclude a taxpayer's access to Appeals to listed transactions.

Section 5. Modification of Authority to Issue Designated Summons

This section provides that the issuance of any designated summons with respect to a taxpayer's return be preceded by a review and written approval of such issuance by the IRS Large Business and International Division Commissioner and the Division Counsel of the Office of Chief Counsel justifying a designated summons, and that this written approval be attached to the designated summons when issued to the taxpayer.

This section also places the burden of proof on the Secretary to show in a judicial enforcement proceeding for a designated summons (or any related summons) that the taxpayer did not reasonably cooperate with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews.

Section 6. Limitation on Access to Non-IRS Employees to Returns and Return Information Acquired by Summons

This section prohibits a person other than an officer or employee of the IRS to receive any books, papers, records, or other data, other than for the sole purpose of serving as an expert.

This section prohibits a person other than an officer or employee of the IRS or the Office of Chief Counsel to question a witness under oath.