

# Changes to Tax Administration On the Horizon: Senate Finance Committee Proposes Major IRS Administration Changes

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Senate Finance Committee Chairman Mike Crapo (R-ID) and Ranking Member Ron Wyden (D-OR) released a bipartisan draft of the Taxpayer Assistance and Service Act (Act or TAS Act) on February 26, 2026, aimed at improving IRS procedure and administration. The bill, comprised of legislative proposals recommended by the National Taxpayer Advocate (NTA) and standalone tax bills measures previously introduced by congressional members, proposes some of the most substantial enhancements to taxpayer judicial protections in years, while additionally seeking to streamline processes and communications for tax compliance.

Below, we discuss some of the most noteworthy provisions within the proposed bill.

## PROPOSED LEGISLATION ANSWERING THE CALL

Notably, the TAS Act represents one of the most significant efforts to modernize IRS taxpayer services in recent years. Numerous provisions within the bill's first section are aimed at addressing IRS backlogs and inefficiencies, communication barriers, and taxpayer protection gaps that have drawn bipartisan concern. Key provisions within the proposed bill's initial section, entitled "Tax Administration and Customer Service," call for:

- Mandating electronic acceptance and processing of returns;
- Establishing a real-time dashboard to report backlogs and wait times;
- Providing the option to receive callbacks (when wait times exceed five minutes);
- Requiring upgrades to IRS online accounts (including facilitating communication within the online accounts) and taxpayer-facing tools, such as "Where's my Refund?"; and
- Providing upgrades enabling taxpayers and their representatives to view images of returns, documents, notices, and letters sent or received by the IRS.

Furthermore, the proposed legislation addresses an important area that has generated significant litigation—the ambiguity regarding when supervisory approval is required for penalties under section 6751(b) and who qualifies as a supervisor. See *Graev v. Comm'r*, 149 T.C. 485 (2017); *Chai v. Comm'r*, 851 F.3d 190 (2d Cir. 2017). Under section 6751(b), a penalty is not valid unless the initial determination of the assessment is personally approved in writing by the immediate supervisor of the individual who first proposed the penalty, or such higher-level official as the IRS may

determine. Section 112 of the proposed TAS Act seeks to mitigate ambiguity with a provision clarifying that written approval would need to be obtained by either a supervisor or the Office of Servicewide Penalties before the IRS sends a taxpayer a notice of penalty that may be appealed to the IRS Independent Office of Appeals (Appeals) or in Federal court.

## TAX COURT PROCEDURES CLARIFIED

Title III of the TAS Act proposes changes to modernize Tax Court procedures and seeks to address longstanding procedural limitations that have hindered efficient resolution of tax disputes. Two provisions related to judicial review are particularly significant.

First, the bill resolves a circuit split regarding the Tax Court's authority and resolves a long-standing jurisdictional hurdle that has resulted from the Tax Court interpreting filing deadlines as absolute. This new provision resolves the legal friction caused by the Supreme Court of the United States' ruling in *Boechler v. Commissioner* (where SCOTUS held that the Tax Court has jurisdiction to waive the filing deadline in collection due process (CDP) cases), and the Tax Court's subsequent refusal in *Hallmark Research Collective v. Commissioner* to apply that same leniency and extend the filing deadline under section 6123(a) for a Tax Court petition in response to a notice of deficiency. The Act would clarify that the Tax Court possesses the authority to "toll" or extend deadlines for deficiency, CDP, and innocent spouse cases when equitable reasons warrant.

Second, section 308 of the TAS Act resolves a significant hurdle for taxpayers who have been locked out of the Tax Court during collection disputes. Section 6330(c)(2)(B) provides that a taxpayer may dispute the existence or amount of the underlying tax liability at a CDP hearing if the taxpayer "did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability." Regulations interpret this to mean that a taxpayer cannot dispute the underlying liability if the taxpayer had an opportunity to dispute the liability with the Appeals, even if any such appeal could not be reviewed by a court. To get judicial review, the taxpayer's only option may be to pay the tax the IRS says they owe and then seek a refund, thereby imposing unnecessary burdens and costs on taxpayers.

Section 308 fixes this by explicitly granting the Tax Court jurisdiction to determine the correct tax liability in CDP appeals, provided the taxpayer has not already had a "day in court." This ensures that taxpayers aren't forced into expensive and complex refund suits in Federal District Court just because they chose to pay their debt upfront to stop interest from accruing.

Furthermore, the proposed bill contains other noteworthy provisions affecting the judicial process, including provisions:

- Empowering the Tax Court to authorize third-party subpoenas for the production of documents and testimony before a hearing date;
- Authorizing the Tax Court to provide relief from a final judgment or order in certain circumstances where justice would so require (providing for consistency with the powers district courts otherwise possess under Federal Rule of Civil Procedure 60); and
- Authorizing parties to consent to the assignment of certain cases to special trial judges (STJs).

## CHANGE AFOOT TO APPEALS PROCESS?

In addition, Title VI of the TAS Act attempts to strengthen the independence of the IRS Independent Office of Appeals. Under current law, Appeals is not authorized to hire its own attorneys and instead relies on legal analysis from the IRS Office of Chief Counsel. These same attorneys frequently provide legal analysis to the IRS Exam and advocate for the Commissioner's positions in court.

The TAS Act addresses this structural conflict by authorizing Appeals to hire attorneys who report directly to the Chief of Appeals (and not IRS Chief Counsel). Notably, the provision would not bar Appeals from continuing to receive advice from Chief Counsel attorneys. Furthermore, the bill would grant Appeals direct hire authority to quickly recruit qualified candidates from *outside* IRS enforcement functions, thereby helping to preserve Appeals' independence

from the enforcement function and serving to alleviate issues previously experienced when seeking to hire qualified personnel.

Section 603 of the proposed legislation addresses a longstanding procedural gap in the refund claim process. Under current law, when a taxpayer files a timely claim for refund pursuant to section 6511(c), the IRS is not obligated to respond. If six months pass without a response, the taxpayer's only recourse is to file a refund suit in federal court—potentially expending judicial resources before the IRS's examination function or Office of Appeals has had any opportunity to evaluate the merits of the claim.

The proposed provision would change this dynamic by requiring the IRS to examine all timely refund claims submitted in the prescribed form and manner and to mail a notice of determination to the taxpayer's last known address within 12 months with a detailed explanation of the IRS's determination and instructions for appealing to the Office of Appeals. If the IRS fails to respond within the prescribed timeframe, the taxpayer would be permitted to treat the IRS's silence as a disallowance, thereby triggering the right to appeal to Appeals. In such cases, the provision would impose a penalty on the IRS in the form of certain specified amounts of additional interest on any refund ultimately determined to be due.

## OTHER PROVISIONS OF INTEREST

Other particularly noteworthy provisions include:

- **FBAR and Form 8938 Reporting** – addressing the burden and confusion facing taxpayers with foreign bank accounts who must file both a Foreign Bank Account Report (FBAR) Form 114 with FinCEN and Form 8938 with the IRS, the bill requires the Secretary to report to Congress within 180 days on actions taken to combine and simplify reporting, eliminate duplicative requests for information, and recommend legislative changes to simplify these international financial information reporting requirements.
- **Small tax cases under section 7463** – doubling the dollar threshold for simplified “small tax case” procedures from \$50,000 to \$100,000 (indexed for inflation), thereby expanding access to this streamlined process to resolve moderate-sized disputes without the formality of regular Tax Court proceedings.

## CONCLUSION

If enacted, these reforms would significantly expand taxpayer rights and modernize Tax Court practice. The TAS Act would improve access to judicial review, enhance the ability to challenge IRS determinations, and strengthen procedural safeguards in tax litigation. For further information or to discuss how any of the proposed changes may affect your organization, please contact any member of Winston's [Tax Controversy Group](#).

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