

TAXPAYER ADVOCATE REPORT

January 17, 2012

Prepared by Legislative Council and the Joint Fiscal Office

Executive Summary

There has been a gradual trend at both the federal and state levels to improve revenue services by creating advocate positions to assist taxpayers on an individual and a systemic basis. One inherent problem with these advocate positions is how to balance the need of the advocate to work within the particular revenue system, while also maintaining enough independence to be an effective advocate.

Vermont's taxpayer advocate was created administratively in 2001 and codified in statute in 2011. No. 45 of the Acts of 2011 required the joint fiscal office and office of legislative council to make proposals for strengthening the independence of Vermont's taxpayer advocate (see Appendix B).

Based on a study of the national taxpayer advocate service and the experience of state advocates, the study recommends that Vermont retain its taxpayer advocate within the current structure of the department of taxes. However, within that context, the report outlines eight considerations to promote the independence of that office. Those nine considerations include the appointment process for the advocate, restrictions on his or her employment, the nature of the taxpayer advocate report, case advocacy protections and taxpayer assistance orders, the maintenance of separate offices and information systems, the disclosure of taxpayer information, outreach efforts, and the creation of a taxpayer bill of rights.

National Taxpayer Advocate and Taxpayer Advocate Service

The federal government has historically led the efforts to provide taxpayer assistance and advocacy services, with many state tax and revenue departments following suit.

There has been a long transformation through multiple changes in federal legislation from the original position to the current federal Taxpayer Advocate Service. In 1979, the Office of the Taxpayer Ombudsman was first created within the IRS. Some significant developments at the federal level include the ability, added in 1988, to issue Taxpayer Assistance Orders (TAO) as well as the first federal Taxpayer Bill of Rights. In 1996, the Office of the Taxpayer Ombudsman was replaced with the Office of the Taxpayer Advocate along with expanded responsibilities. The Taxpayer Bill of Rights was also revised at this time. The most recent changes were made in 1998 when the position became the National Taxpayer Advocate (NTA) with all Local Taxpayer Advocates in the 50 states reporting directly to the NTA.¹

Currently, the National Taxpayer Advocate's office has four main duties. Section 7803(c)(2)(A) states:

It shall be the function of the Office of the Taxpayer Advocate to—
(i) assist taxpayers in resolving problems with the Internal Revenue Service;

¹ More detailed information is available on the Taxpayer Advocate Service website at <http://www.taxpayeradvocate.irs.gov/>.

- (ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;
- (iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and
- (iv) identify potential legislative changes which may be appropriate to mitigate such problems.

At present, the Taxpayer Advocate Service has a budget of approximately \$210 million with employees in all 50 states, headed by the National Taxpayer Advocate. The Taxpayer Advocate Service has four main programs: case advocacy, systematic advocacy, a taxpayer advocacy panel, and low income taxpayer clinics. The National Taxpayer Advocate submits two reports directly to Congress which, by design, may not be reviewed by either the Commissioner of the Internal Revenue Services (IRS) or the Secretary of the Treasury.

As discussed in more detail below, there are a number of attempts at the federal level to create additional independence for the National Taxpayer Advocate. For example, the Taxpayer Advocate Service is part of the IRS, but the National Taxpayer Advocate is appointed by the Commissioner of the Treasury in consultation with the Commissioner of the IRS. The position may not, by statute, be filled by someone who worked for the IRS for two years prior nor may the person accept a position within the IRS for five years after serving as the National Taxpayer Advocate. The National Taxpayer Advocate may issue Taxpayer Assistance Orders (TAO) mentioned earlier, which require the IRS to take action or refrain from action with a taxpayer within 24 hours.

The NTA has a focus on civic education and making the connection for taxpayers between the taxes paid and the services provided by government. As part of this, the NTA has made extensive use of technology to assist with communications. The Taxpayer Advocate Service has a detailed website, Facebook page, Twitter following, and posts YouTube videos on hot tax topics. The National Taxpayer Advocate is able to use these forums to build awareness of her services and educate taxpayers as to their rights and responsibilities.

Taxpayer Advocate Positions in State Revenue Departments

The position of Taxpayer Advocate appears to be an evolving realm within state tax departments. There are 28 state-level taxpayer advocates or other similar positions (see Appendix A). The titles range from Problem Resolution Officer to Taxpayer Ombudsman and Taxpayer Advocate, among other variations. The titles reflect the variety of the responsibilities and authority taxpayer advocates may have in each state. Approximately one-half of the positions are codified in statute, while many others are not². None of the state taxpayer advocates is completely independent of the state department responsible for revenue collection, although each state has established various levels of independence for the position. The budget for each office/TA is a part of the larger department and controlled by the Commissioner. There has been some recent legislative

² Trachtenberg, Jack, JD. "An Update from the New York State Taxpayer Rights Advocate," TaxStringer, March 2011 Vol.2 No.3 (www.nyssscpa.org)

activity surrounding taxpayer advocate positions in both Maine and New York. The following paragraphs describe the taxpayer advocate positions in surrounding states.

Maine

The taxpayer advocate position in Maine has followed a similar trajectory to that of the position in Vermont. Recent legislation, which passed during the last session, has made some significant changes that will begin on July 1, 2012. The Maine taxpayer advocate position was first created in 1995 within Maine Revenue Services. The job was not defined in statute, but rather created by the administration at the level of Management Analyst I. The Maine taxpayer advocate is a stand-alone position with no additional staff within the department. The position has been gradually upgraded and is at present at the staff attorney level. The current taxpayer advocate has held the position since 1997, two years after the job was created, and was hired from outside the department. Until this year, the taxpayer advocate position description, powers and responsibilities, and reporting have all been informal and largely dependent upon the supervisor. The taxpayer advocate reporting has changed multiple times from the General Counsel, to the State Tax Assessor, and will be to the Commissioner of Administrative and Financial Services this coming July.

The new law, An Act to Promote Fair and Efficient Resolutions in Tax Disputes (L.D. 1371 passed in 2011), is Maine's first attempt to codify the position. The taxpayer advocate changes in the act relate to the reporting authority, a brief outline of the duties and responsibilities, the requirements of an annual report, and the establishment of a formal response by the Assessor to recommendations from the taxpayer advocate. The compensation remains the same and all existing rules, regulations, and procedures in operation by the taxpayer advocate continue to be in effect. The Maine taxpayer advocate is a dedicated position without other responsibilities within the department. The majority of the time is spent reviewing individual tax cases, with less emphasis on public education and outreach. The Maine taxpayer advocate also responds to constituent tax issues for the Administrative branch.

Massachusetts

The Office of the Taxpayer Advocate in Massachusetts is in addition to the Problem Resolution Office (PRO) and was created approximately 15 years ago. The PRO has six staff members: a director, deputy and four examiners, who address case advocacy and include a Child Support Enforcement unit. The Office of the Taxpayer Advocate is a single staff person at the Deputy Commissioner level within the Department and derives authority directly from the Commissioner. Massachusetts law establishes the PRO but not the Office of the Taxpayer Advocate; nonetheless, the position is well established within the Department's hierarchy. The taxpayer advocate has the authority to abate taxes, release liens, levies, and wage garnishments, as well as undo a revocation of professional licenses. These abilities derive from the advocate's position as deputy commissioner within the department. The Massachusetts taxpayer advocate has various board appointments and represents the department to the public as well as meets with practitioners and others to discuss systematic tax issues. Finally, similar to Maine, all questions from elected officials are handled by the Office of the Taxpayer Advocate.

New York

The position of taxpayer advocate was established in 2009 in New York. Prior to this, there have been a problem resolution officer and a business ambassador. None of these positions have ever been codified. The current and first taxpayer advocate in New York was hired from a private law firm, but had extensive experience with the department. In New York, there are eight full-time case advocates in addition to the TA. These are dedicated positions and are not shared with any of the other divisions within the Department of Revenue. The TA is a deputy commissioner level position, and the ability to issue TAOs has been implemented administratively. In addition to case advocacy (over 4,000 Form 911 taxpayer assistance applications have been submitted over the two-year period), the TA has worked on systematic changes, including offer and compromise reform and collection reform. Taxpayer outreach and education are a large part of the TA effort and include numerous articles elaborating the new office and its abilities, and presentations to many interest groups on tax law and policy changes in New York. Finally, the TA has advocated for the position to be codified to permanently protect the position, guarantee its authority, establish a confidentiality policy in statute, and report directly to the legislature. The bill (2011 S.1072) An Act to amend the tax law, in relation to enacting the “taxpayer advocate act” would have achieved this effort, but was vetoed last year.

Pennsylvania

The taxpayer advocate office in Pennsylvania was established in 1972 and has a total staff of four, including the taxpayer advocate, two assistants and one receptionist. The office is within the department of revenue and the budget is combined. The taxpayer advocate works on case advocacy, including innocent spouse protection, and identity theft cases as well as systematic advocacy. The Pennsylvania taxpayer advocate has the ability to issue taxpayer assistance orders and reports to the legislature each year.

Vermont

The taxpayer advocate position was created in 2001 by the commissioner of the Department of Taxes as part of the classified service. The job description is broad and includes a number of responsibilities ranging from serving as a member of the management team on budget, personnel and planning issues, tax policy formulation, proposing legislative changes, and writing regulations, formal declaratory rulings, and technical bulletins. The position was filled by an internal senior staff member who has served from its inception. The focus of the position has developed to one of case advocacy, but without any formal authority to intervene on the behalf of taxpayers. In addition, the taxpayer advocate works with tax professionals and groups as part at the department’s outreach and education efforts. The taxpayer advocate also has ongoing projects unrelated to advocacy, such as being the IRS tax information disclosure officer, and preparing the income tax forms.

It is clear that the position of the taxpayer advocate in Vermont has evolved over the past decade, and the responsibilities may have changed due to the policy priorities and direction of the various commissioners. The interrelationship between the taxpayer advocate’s involvement in the day-to-day operations of the department and long employment history prior to assuming the taxpayer advocate duties has likely led to the perception that the position lacks independence. In the states discussed in detail, the taxpayer advocate has always been appointed from outside the ranks of the tax department staff, even if there was no formal appointment rules or requirements

specified. It appears that tax insiders, such as lawyers, CPAs, and tax practitioners, who work frequently with the tax department are well aware of the Vermont taxpayer advocate, but many in the general public are unaware or not clear on the purpose of the position or potential benefit to taxpayers. In addition, the Vermont TA has a relatively low public profile, especially compared to taxpayer advocates in some states. Just this summer, a separate page on the Vermont department of taxes' website was added which includes information about the TA mission. In many states, the taxpayer advocate's name and contact information is the only one listed publicly, with the exception of the commissioner. In summary, over the last 10 years, the taxpayer advocate in Vermont has acted mainly as an internal problem resolution officer, with little authority, and limited education and outreach responsibilities.

Last session, the legislature made the Vermont taxpayer advocate position statutory along with a list of responsibilities, thereby raising its status as one of the few state positions and job descriptions permanently codified in Vermont law. In general, only the constitutional officers and certain other enumerated positions (agency secretary or commissioner level, and some assistants) in state government are codified. Most other positions are authorized and budgeted in session law. The only other position similarly situated in Vermont is that of the health care ombudsman.³ The office of the health care ombudsman is established by contract with any nonprofit organization (at present Legal Aid) and has a list of enumerated responsibilities, guarantees for cooperation and information from state government, and a confidentiality policy. While this may be another potential independent model for a taxpayer advocate arrangement in Vermont, the enhanced protections for the privacy of taxpayer information would likely prevent this from being successful for taxpayer issues.

Recommendations

The experience in other states suggests that a fully independent Office of the Taxpayer Advocate would not be an ideal model in Vermont for a number of reasons. There may not be enough demand, especially case advocacy work, in the state to require more than one dedicated taxpayer advocate. A fully independent, single, or even two- or three- person office could not take advantage of the resources or benefit from the efficiencies of being a part of the larger tax department organization. In contrast, a taxpayer advocate embedded within the state tax department could have access to confidential taxpayer information, access to internal discussion and debate, and a formal and informal knowledge of the operations and personnel within the tax department. The experiences of other states indicates it is important for a taxpayer advocate to achieve a balance between a critical and independent view of tax issues, while maintaining a collaborative working relationship with leadership and others within the department responsible for revenue collection.

Based on the experiences of the National Taxpayer Advocate and the experience of other states, and based on the structure and history of Vermont's taxpayer advocate, the report recommends that the legislature retain a taxpayer advocate within the department of taxes, and should consider the following policy aspects to promote independence:

³ 8 V.S.A. § 4089w.

1. Independent appointment and retention

The National Taxpayer Advocate is appointed by the Secretary of the Treasury, with the consultation of the Commissioner of the Internal Revenue Service and the Internal Revenue Service Oversight Board. The National Taxpayer Advocate reports directly to the Commissioner of the Internal Revenue Service.

Taxpayer advocates in other states are embedded within the structure of the state revenue department, and are not appointed or structured completely outside their respective revenue departments. For example, the taxpayer advocates in the northeast region, in Maine, Massachusetts, Pennsylvania, New Jersey, New York, and Connecticut, are all appointed by their commissioner, and all report to the tax commissioner. Some states, such as New York, have a taxpayer advocate that is at a deputy commissioner level, and some states, such as Maine, and now Vermont, have a taxpayer advocate position that is separately codified in statute. But research for this report did not reveal any state in which the taxpayer advocate was appointed without involvement of the state tax commissioner, or that reported to someone other than the tax commissioner.

Currently, Vermont's taxpayer advocate is appointed by the commissioner of taxes and reports directly to her. Adopting an appointment process similar to the federal model could promote both the perceived and actual independence of the taxpayer advocate in Vermont. The taxpayer advocate in Vermont could be appointed by the secretary of administration with the consultation of the commissioner of taxes, and report directly to the commissioner.

2. Restrictions on employment

Federal law restricts who can be appointed as the National Taxpayer Advocate. The National Taxpayer Advocate must be someone who has not worked for the Internal Revenue Service for two years prior to his or her appointment, and he or she must commit to not working for the Internal Revenue Service for five years after leaving the Office of the Taxpayer Advocate. However, time spent in the Office of the Taxpayer Advocate does not count toward these time limits.

The federal statute states:

An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

See 26 U.S.C. § 7803(c)(1)(B)(iv).

The federal time restrictions seem designed to ensure that the National Taxpayer Advocate is perceived, and is in fact, more independent from the Internal Revenue Service. It seems intuitively obvious that someone who was recently employed by the IRS, or who may be seeking employment with the IRS, will be perceived as less impartial when interacting with the IRS as Taxpayer Advocate.

A similar restriction in Vermont could add to the taxpayer advocate's independence. However, most state revenue departments, including the Vermont department of taxes, are on a very different scale from the Internal Revenue Service. A similar employment restriction in Vermont may make it difficult to find a candidate with a working knowledge of how the department of taxes works or is staffed. The pool of qualified applicants for a taxpayer advocate would be much smaller in Vermont, and the chance that the applicant has worked for the Vermont department of taxes would seem to be greater. In addition, research for this report has not revealed any state that has an employment restriction similar to the IRS restriction.

3. Report directly to legislature

Currently, Vermont's taxpayer advocate statute requires the advocate to submit an annual report to the senate committee on finance and the house committee on ways and means. However, there is no provision in current law that prevents this report from being first reviewed by the commissioner of taxes, or anyone else in the executive branch.

Vermont's current law states, at 32 V.S.A. § 3205(c):

(c) The taxpayer advocate shall prepare an annual report detailing the actions the taxpayer's advocate has taken to improve taxpayer services and the responsiveness of the department of taxes. The report shall identify the problems encountered by taxpayers in interacting with the department of taxes and include specific recommendations for administrative and legislative actions to resolve those problems. The report shall identify any problems that span an entire class of taxpayer or specific industry, and propose class- or industry-wide solutions. The report of the taxpayer advocate shall be submitted to the senate committee on finance and the house committee on ways and means no later than January 15th of each year.

In contrast, the National Taxpayer Advocate is required by statute to send his or her reports directly to Congress, without any other review by executive branch officials. Section 7803(c)(2)(B)(iii) of the Internal Revenue Code states:

(iii) Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

A provision requiring that Vermont's taxpayer advocate report be submitted directly to the general assembly may enhance the appearance and actual independence of the taxpayer advocate. However, a direct report would also increase the chances that the general assembly gets only one side of an issue, and may require follow-up testimony from the department of taxes. One way to address this problem may be to permit or require a response from the commissioner of taxes to the taxpayer advocate report. Some other jurisdictions, such as the federal government and Maine, require such a response. See, e.g., 26 U.S.C. § 7803(c)(3); 36 M.R.S.A. § 151-C(5).

4. Case advocacy and taxpayer assistance orders

Vermont's current taxpayer advocate handles case inquiries from individual taxpayers, but she lacks specific powers to remedy those complaints. In addition, the codification of the position last year by the legislature did not include specific powers related to individual case advocacy. Providing the taxpayer advocate with tools to respond to individual requests for help outside of the normal tax structure is one way to promote the independence of the office.

In some states, such as New York, the power of the taxpayer advocate to assist individual taxpayers is tied to a delegation of authority from the commissioner. Current law in Vermont could permit a similar delegation. In Vermont, the commissioner can

(2) Delegate to any officer or employee in the department powers the commissioner deems necessary to carry out efficiently the tax provisions within the commissioner's jurisdiction. 32 V.S.A. § 3201(2).

The commissioner of taxes in Vermont could delegate to the taxpayer advocate powers to abate taxes for specific reasons up to certain amount levels, or to halt collections actions in certain hardship cases.

However, there are two problems with the delegation approach. First, any delegation by the commissioner is completely at his or her discretion and can be undone administratively. Second, the legislature cannot require an executive official to delegate his or her authority. If the legislature wants the taxpayer advocate to have enhanced powers for individual advocacy, it would need to codify those specific powers.

Another approach used on the federal level, and in other states, is to give a taxpayer advocate power to help individual taxpayers by allowing him or her to issue taxpayer assistance orders. Taxpayer assistance orders originate at the federal level. The National Taxpayer Advocate may issue a taxpayer assistance order when (1) the taxpayer is suffering or about to suffer a "significant hardship" as a result of the manner in which the IRS is administering the law; and (2) the IRS does not agree with the taxpayer advocate on the proper resolution of the case or fails to perform the actions recommended by the taxpayer advocate. IRM § 13.1.20.2.

A "significant hardship" means (1) an immediate threat of adverse action; (2) a delay of more than 30 days in resolving a taxpayer account problem; (3) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; and (4)

irreparable injury to or long-term adverse impact on the taxpayer if relief is not granted. 26 U.S.C. § 7811(a).

A taxpayer assistance order can require the IRS take the following actions: (1) release property of the taxpayer that has been attached by levy; (2) cease from any action, or take any legally permitted action, related to collections, bankruptcy, and receivership proceedings, or the examination process. 26 U.S.C. § 7811(b).

A taxpayer assistance order must be followed by anyone working at the IRS, and may only be modified or rescinded in writing by the National Taxpayer Advocate, the Commissioner of the IRS, or the Deputy Commissioner of the IRS. 26 U.S.C. § 7811(c). The Internal Revenue Service regulations and manual have a comprehensive appeal process for taxpayer assistance orders that funnels the orders through the IRS hierarchy quickly.

Several states that have taxpayer advocates give the advocate a similar power, albeit in a simpler format. For example, the taxpayer advocate in Pennsylvania may issue taxpayer assistance orders when “the manner in which the State tax laws are being administered is creating or will create an unjust and inequitable result for the taxpayer.” 72 P.S. § 3310-208(a). The Pennsylvania taxpayer advocate can issue orders to release levied property or to halt the enforcement of the tax laws “until the issue or issues giving rise to the order have been resolved.” 72 P.S. § 3310-208(b).

Providing affirmative power for Vermont’s taxpayer advocate to help taxpayers in jeopardy would arguably add to the independence and effectiveness of the office. Without something similar to the power to issue taxpayer assistance orders, the taxpayer advocate may be perceived as powerless to intervene on a taxpayer’s behalf in some meaningful way. Sometimes, even just the threat of issuing a taxpayer assistance order may be enough leverage to help a taxpayer advocate reach an equitable result in a given case.

One disadvantage to providing enhanced case advocacy powers, however, may be to create a more adversarial environment between the taxpayer advocate and the rest of the tax department hierarchy. This tension could conceivably lead to a reduction in communication on other issues related to the taxpayer advocate’s job. In addition, care would also need to be taken so that an enhancement to an advocate’s case advocacy powers is not mistaken by the public as a representation of the taxpayer in a legal or moral sense.

5. Establish separate office and information systems

The IRS Taxpayer Advocates are required by statute to maintain a separate office from the local IRS office. 26 U.S.C. § 7803(c)(4)(B) states “Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.”

In Vermont, a separate taxpayer advocate office would have several consequences. A separate office would arguably increase the perception of independence, and increase public confidence in the taxpayer advocate. However, housing the taxpayer advocate in a separate office would

increase the associated costs, as well as limit the taxpayer advocate's ability to communicate with tax department personnel. Specifically, creating separate office and information systems may limit the taxpayer advocate's access to confidential taxpayer information. This latter consequence may lead to the taxpayer advocate being less informed about tax department policies and procedures and also create a sense of isolation, since Vermont's taxpayer advocate office is likely to be small.

6. Disclosure of taxpayer information

The National Taxpayer Advocate's office is given discretion about whether or not to disclose taxpayer information to the Internal Revenue Service. 26 U.S.C. § 7803(c)(4)(A)(iv) states that each local taxpayer advocate "may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer." There are, however, a number of exceptions to this disclosure rule in federal law, primarily for cases of fraud or criminal activity. See, e.g., IRM § 13.1.5.3.

Currently, there is no statutory or regulatory guidance on whether Vermont's taxpayer advocate can withhold from the tax department information he or she gathers when working with a taxpayer. Allowing the taxpayer advocate the discretion to withhold information could encourage taxpayers to communicate freely with the advocate without fear of reprisal, could encourage taxpayers to utilize the taxpayer advocate, and could increase the taxpayer advocate's appearance of neutrality and independence.

There are, however, two issues with allowing the taxpayer advocate to withhold confidential information. First, as with federal law, any exceptions to this policy, such as for fraud and criminal activity, would need to be clearly communicated to taxpayers. Second, giving a taxpayer advocate discretion may be difficult to police. In other words, if the taxpayer advocate were statutorily permitted to withhold information except for cases of fraud or criminal activity, it is not clear how anyone could ever review the taxpayer advocate's decision in a particular case.

The solution to this problem at the federal level is to draw the exceptions to the confidentiality policy very clearly, with substantial penalties, and then permit the taxpayer advocates to seek a confidential opinion of IRS counsel when questions arise. Another solution to this problem may be to address this issue on the administrative level. For example, in New York, the taxpayer advocate and commissioner have negotiated an agency policy allowing the taxpayer advocate to withhold certain information, but also allowing the commissioner to ultimately override that policy if a dispute arose.

7. Outreach efforts

The current Vermont taxpayer advocate does significant outreach with professional and industry groups affected by the department of taxes. One way to enhance this outreach work, and to promote the perception of independence of the office, could be to improve the taxpayer advocate's public profile. Many taxpayer advocates in other states have a separate web page or web presence, as well as a separate social media presence.

8. Taxpayer bill of rights⁴

The IRS and 43 states have an explicit Taxpayer Bill of Rights either in code or enumerated by the state's department of revenue and/or taxation. Vermont is one of seven states without a Taxpayer Bill of Rights, including Alaska, Colorado, Delaware, Idaho, Mississippi, and Oklahoma. A Taxpayer Bill of Rights is generally a charter of the mutual responsibilities of the taxpayer and the state tax collection authority. The first Taxpayer Bill of Rights was developed by states and the IRS in the 1980's. These statutes or documents are intended to educate the public and promote fairness, confidentiality, and consistency of the application of tax laws. In most states, the origin of the Taxpayer Bill of Rights appears to be statutory, but in several states, the rights of taxpayers are a policy statement⁵, administrative rule, or a compilation of the various protections across the tax code produced by the department responsible for collecting taxes.

The legislature or department of taxes may want to consider developing a Taxpayer Bill of Rights for Vermont. Generally, these statutes do not change the existing rights and responsibilities, but clarify them, and consolidate them in one place for taxpayers to access easily and quickly. Attached to this report is an example of a taxpayers' rights handbook from Michigan that was developed through legislation and efforts by the executive branch.

Any combination of the above nine options discussed above could strengthen the independence and increase the authority of the taxpayer advocate position in Vermont.

⁴ These responsibility codes should not be confused with TABOR laws – also known as taxpayer bill of rights – which are a controversial limit on government growth by provisions that tie the increase of overall tax revenue to inflation or population increases unless approved by referendum. Colorado has the most well known state-level example of this legislation.

⁵ Connecticut and New Mexico.

APPENDICES

APPENDIX A

Taxpayer Advocate Information			
State	Title/Name of Office	Date Established	Taxpayer Bill of Rights
Alabama	Office of Taxpayer Advocacy		http://www.revenue.alabama.gov/taxpayerassist/TaxpayerBillOfRights.pdf
Alaska	N/A		N/A
Arizona	Problem Resolution Officer, Taxpayer Assistance Office	Statutory	http://www.azdor.gov/Portals/0/Brochure/001.pdf
Arkansas	N/A		http://www.dfa.arkansas.gov/offices/policyAndLegal/Pages/billOfRights.aspx
California	Taxpayers' Rights Advocate, Franchise Tax Board		http://www.ftb.ca.gov/forms/misc/4058C.pdf
Colorado	Citizen's Advocate Corps	1993	N/A
Connecticut	DRS Problem Resolution/Taxpayer Advocate Office		http://www.ct.gov/drs/lib/drs/publications/pubsp/2008/ps08-4.pdf
Delaware	N/A		N/A
Florida	Taxpayer Rights Advocate		http://dor.myflorida.com/dor/forms/2010/gt800039.pdf
Georgia	Taxpayer Advocate		https://etax.dor.ga.gov/taxinfo/Taxpayer_Bill_of_Rights.pdf
Hawaii	Taxpayer Advocate		http://state.hi.us/tax/pubs/11bor.pdf
Idaho	N/A		N/A
Illinois	N/A		http://tax.illinois.gov/Individuals/rights.htm
Indiana	Tax Advocacy Office	1989	http://www.in.gov/dor/3660.htm
Iowa	N/A		http://www.iowa.gov/tax/educate/78619.html
Kansas	Taxpayer Advocate		http://kansasstatutes.lesterama.org/Chapter_79/Article_32/79-3268.html

State	Title/Name of Office	Date Established	Taxpayer Bill of Rights
Maine	Taxpayer Advocate	1995 (2010 statute)	http://www.state.me.us/revenue/homepage_files/taxpayer_rights.htm
Maryland	Office of the Taxpayer Ombudsman		http://www.comp.state.md.us/taxpayerrights/taxpayer-bill-of-rights_web.pdf
Massachusetts	Office of the Taxpayer Advocate and a Problem Resolution Office	1996 approx	http://www.mass.gov/?pageID=dorsubtopic&L=7&L0=Home&L1=Individuals+and+Families&L2=Personal+Income+Tax&L3=Forms+%26+Publications&L4=Publications&L5=Publications+Index&L6=A+Guide+to+the+Massachusetts+Department+of+Revenue%3A+Your+Taxpayer+Bill+of+Rights&sid=Ador
Michigan	Taxpayer Advocate		http://mi.gov/documents/taxes/TBOR_199483_7.pdf
Minnesota	Taxpayer Rights Advocate		https://www.revisor.mn.gov/laws/?id=604&doctype=chapter&year=1990&type=0
Mississippi	N/A		N/A
Missouri	N/A		http://dor.mo.gov/forms/3097.pdf
Montana	N/A		http://data.opi.mt.gov/bills/mca/15/1/15-1-222.htm
Nebraska	N/A		http://www.revenue.ne.gov/rights.html
Nevada	N/A		http://tax.state.nv.us/documents/Taxpayer%20Bill%20of%20Rights.pdf
New Hampshire	N/A		http://www.nh.gov/revenue/faq/billright.htm
New Jersey	Office of the Taxpayer Advocate		http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/anj1.pdf
New Mexico	Ombudsman		http://www.tax.newmexico.gov/SiteCollectionDocuments/Publications/FYI-Publications/FYI-405__TAXPAYER%20BILL%20OF%20RIGHTS%202009.pdf
New York	Office of the New York State Taxpayer Rights Advocate	2009	http://www.tax.ny.gov/pdf/publications/general/pub131_407.pdf
North Carolina	N/A		http://www.dornc.com/taxes/rights.html

State	Title/Name of Office	Date Established	Taxpayer Bill of Rights
North Dakota	N/A		http://www.nd.gov/tax/genpubs/bill-of-rights.pdf
Ohio	Problem Resolution Office		http://tax.ohio.gov/divisions/communications/publications/documents/taxpayer_bill_of_rights.pdf
Oklahoma	Taxpayer Advocate Office & Problem Resolution Program		N/A
Oregon	N/A (Taxpayer Ombudsman Proposal 2011 HB 2636)		http://www.oregon.gov/DOR/PERTAX/800-406.shtml
Pennsylvania	Taxpayer Advocate	1972	Appear to have local taxpayer bill of rights laws
Rhode Island	N/A		http://www.tax.ri.gov/help/rights.php
South Carolina	Taxpayer Advocate		http://www.sctax.org/Publications/Tax+Payer+Bill+of+Rights.htm
South Dakota	N/A		http://www.state.sd.us/drr2/businesstax/publications/rv-060_bill_of_rights_web.pdf
Tennessee	N/A		http://www.tn.gov/revenue/pubs/billofrights.pdf
Texas	N/A		http://www.window.state.tx.us/taxinfo/taxpubs/tx96_265.pdf
Utah	Taxpayer Advocate	http://tax.utah.gov/contact	http://tax.utah.gov/forms/pubs/pub-02.pdf
Vermont	Taxpayer Advocate	2001	N/A
Virginia	Taxpayer Rights Advocate		http://www.tax.virginia.gov/Documents/BILLOFRIGHTS.pdf
Washington	Taxpayer Rights Advocate	http://dor.wa.gov/content/contactus/contact_taxadv.aspx	http://dor.wa.gov/docs/pubs/excisetax/filtaxreturn/trrbroc.pdf
West Virginia	N/A		http://www.tax.virginia.gov/Documents/BILLOFRIGHTS.pdf
Wisconsin	N/A		http://www.revenue.wi.gov/pubs/pb114.pdf
Wyoming	N/A		http://audit.state.wy.us/EXCISE/Taxpayer%20rights.htm

APPENDIX B

No. 45 of the Acts of 2011.

Sec. 36e. 32 V.S.A. § 3205 is added to read:

§ 3205. TAXPAYER ADVOCATE

(a) There is established within the department of taxes an office of the taxpayer advocate.

(b) The taxpayer advocate shall have the following functions and duties:

- (1) identify subject areas where taxpayers have difficulties interacting with the department of taxes;
- (2) identify classes of taxpayers or specific business sectors who have common problems related to the department of taxes;
- (3) propose solutions, including administrative changes to practices and procedures of the department of taxes;
- (4) recommend legislative action as may be appropriate to resolve problems encountered by taxpayers;
- (5) educate taxpayers concerning their rights and responsibilities under Vermont's tax laws; and
- (6) educate tax professionals concerning the department of taxes regulations and interpretations by issuing bulletins and other written materials.

(c) The taxpayer advocate shall prepare an annual report detailing the actions the taxpayer's advocate has taken to improve taxpayer services and the responsiveness of the department of taxes. The report shall identify the problems encountered by taxpayers in interacting with the department of taxes and include specific recommendations for administrative and legislative actions to resolve those problems. The report shall identify any problems that span an entire class of taxpayer or specific industry, and propose class- or industry-wide solutions. The report of the taxpayer advocate shall be submitted to the senate committee on finance and the house committee on ways and means no later than January 15th of each year.

(d) By January 15, 2012, the joint fiscal office and the office of legislative council shall jointly present a proposal to the senate committee on finance and the house committee on ways and means for the creation of an independent office of the taxpayer advocate. The proposal shall consider the experiences in other states and include the specific duties and functions of the office, an independent appointment and retention process, a reporting process, and potential funding sources. The joint fiscal office and office of legislative council shall be assisted by the department of taxes, and any other executive agency, as necessary in preparing the proposal.

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