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

H.R. 3220 helps ensure IRS audits are more effective and efficient for taxpayers and the IRS by ensuring taxpayer rights are protected by curtailing certain IRS litigation tactics during an audit and guaranteeing taxpayers' right to appeal their cases to the independent Office of Appeals. It would also prevent the IRS from outsourcing audits of confidential taxpayer information to private law firms or other contractors.

In recent years, certain IRS litigation tactics have 1) denied taxpayers access to administrative resolution of tax disputes, 2) prejudiced taxpayers' right to a fair and impartial hearing with the IRS Office of Appeals or in the courts, and 3) needlessly extended audits for compliant taxpayers.

Rather than focusing on the correctness of a taxpayer's return and resolving disagreements efficiently, unnecessary litigation postures can corrode the cooperative relationships between taxpayers and the IRS, impede transparent interaction, decrease efficiency, raise costs, and increase uncertainty for both taxpayers and the IRS.

The vast majority of tax issues are resolved administratively, either by the IRS Examination Division or the Office of Appeals, which is an independent function charged with providing a fair and impartial resolution of tax controversies following an audit. The IRS Restructuring and Reform Act of 1998 requires the IRS Commissioner to ensure the availability of an independent appeals function.

H.R. 3220 addresses the following litigation tactics the IRS has used to deny or delay taxpayer access to Appeals:

Issuing a statutory notice of deficiency ("90-day letter") without first issuing a 30-day letter, which provides the taxpayer the opportunity to resolve its case with Appeals before filing a Tax Court petition.

- The bill provides a statutory right to review by Appeals, in most cases before the issuance of a notice of deficiency.

Designating a case for litigation, thereby precluding access to Appeals or the Competent Authority process, even though other similarly taxpayers are afforded those opportunities.

- The bill restricts the IRS's ability to designate cases for litigation to listed tax shelter transactions.

Using a designated summons to request information obtainable through other means, which suspends the statute of limitations and delays access to Appeals.

- The bill requires written approval by the Commissioner of the Large Business & International Division of the IRS as well as Division Counsel of the Office of Chief Counsel and that such written approval be attached to the summons.
- The bill requires that the Secretary bear the burden of demonstrating that the taxpayer did not reasonably cooperate with reasonable requests for witnesses, information, documents, meetings, and interviews.

IRS hiring of a law firm to participate in an audit of a taxpayer.

- The bill prohibits the taking of testimony and examination of books and witnesses by outside contractors.