

The South Dakota Taxpayers' Bill of Rights

An Introduction

The issue of taxpayer rights gained national attention during the late 1980's. California passed the country's first taxpayer bill of rights in 1987. In 1988, Congress passed a federal bill to that effect, and in 1989, additional states began to formulate their own legislation.

South Dakota passed its taxpayers' bill of rights in 1990. This legislation formalized the fundamental principles that have guided the South Dakota Department of Revenue since 1986. Those principles are:

- A sincere respect for taxpayers and the importance of their role in providing public services;
- A belief that taxpayers act in good faith;
- An unwavering commitment to the uniform and fair application of our tax laws;
- A conviction that bureaucratic methods of dealing with taxpayers are inappropriate and ultimately ineffective;
- A recognition that our tax system depends on the voluntary compliance of our taxpayers.

The specific rights contained in the South Dakota Taxpayers' Bill of Rights flow naturally from these five principles. By detailing these rights in this publication, the department intends to assure taxpayers that the principles that have directed us in the past will continue to be our guide in the future.

Bill of Rights

1. **You have the right to confidentiality.**

All tax return information given to the South Dakota Department of Revenue is strictly protected by statute. Any department employee misusing the information or in any other way breaking this confidentiality is subject to prosecution.

2. **You have the right to tax information that is written in plain English.**

The department will be diligent in eliminating technical and bureaucratic writing in its communication with taxpayers.

3. **You have the right of appeal.**

If you have been assessed an additional tax, you have the right to appeal the decision before an impartial hearing examiner, the circuit court and the state supreme court.

4. **You have the right to courteous, prompt, and accurate answers to your questions.**

Department of Revenue employees understand that you are required to comply with tax laws that are both complex and changing. They know that a major part of their work is to help you understand the existing law and provide you with up-to-date information on changes.

5. **You have the right to be certain that collection procedures or assessments are not influenced by performance goals or quotas.**

The department will not use collection or assessment goals or quotas to evaluate the performance of its employees.

6. **You have the right to rely on the written advice given to you by the Department of Revenue.**

The department will honor the advice and directions given to taxpayers in written form, even if incorrect, unless that advice is invalidated by a change in the facts upon which the advice was based, a change of law, or a written statement by the department setting the advice aside.

7. **You have the right to be notified before the department audits your records unless the Secretary of Revenue determines that a delay will jeopardize the collection of tax.**

Under normal circumstances, taxpayers whose records are scheduled for an audit will be sent a notice of intent to audit at least 30 days before the date of the audit.

8. You have the right to clear and consistent policy regarding the deadlines for filing tax returns and making payments.

The department will publish filing and payment deadlines in its brochures, newsletters and other informational materials.

9. You have the right to seek a refund of any taxes you believe you have overpaid within the last three years.

The department provides a form specifically designed for this purpose.

10. You have the right to a process requiring that the seizure of your property for taxes be approved by a person no lower in authority than the division director.

The Department of Revenue recognizes that this action is taken as a last resort and only with the approval of its top managers.

11. You have the right to expect that a good-faith effort to comply with tax laws will be given consideration in disputed cases.

If you have requested a clarification from the department in writing and you can show that the application of a tax law is still open to widespread misunderstanding, the secretary of revenue may reduce or nullify your tax, interest and penalty.

12. You have the right to a tax credit of interest or penalties that are determined to have been inappropriately levied.

If, for example, an assessment is found to be wrong or if the department does not give you timely notice of liability, you will be credited for any interest or penalties you have paid.

13. You have the right to the removal of a lien on your property within 30 days after you have paid all tax, penalty and interest due.

As soon as all tax obligations are met, the department will act as quickly as possible to remove liens from taxpayer property.

14. You have the right to have the South Dakota Department of Revenue correct the public record.

If the department errs in the application of a lien on property, it will guarantee that the public records are corrected. If legal action is required to enforce this right, the department will be liable for court costs.

