

Tax Charter: Global experience in legislation and subordinate legislation

- ITRAF Annual Conference

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Introduction

A good tax system requires support of the Taxpayers. This is hard to achieve unless there is balance between Taxpayers' rights and obligations.

Having procedures acceptable for the Taxpayers and the Tax Authorities became a necessity rather than an option for a healthy tax environment

Taxpayer Charter

Initiative taken by Government to overcome this fear or gap between the taxpayer and tax administration is 'Taxpayer Charter'. Taxpayer Charter intends to build community confidence. It helps to establish a respectful and trusting relationship between the taxpayer and the Tax Authorities.

- Philip Baker defines Taxpayer's Charter as a *'short, accessible statement of the basic rights and obligations of Taxpayers in dealing with the Tax Authorities'*

OECD report

- In 1990, the OECD's Committee of Fiscal Affairs Working Party published a document entitled "**Taxpayer's rights and obligations – A survey of the legal situation in OECD countries**".
 - The results showed that although Taxpayer's Charter was not in place in many of the member countries, some of the basic **rights** were provided to the taxpayers in the legislature, such as opportunity of being heard, right to appeal, right to be informed, assisted and heard, right to pay no more than the correct amount of tax, right to certainty, right to privacy, etc.
- The results of the survey also revealed that there were certain **obligations** entrusted on taxpayers. A set of behavioral norms expected of taxpayers by Governments such as obligation to be honest, provide accurate information, keep proper records, obligation to pay taxes on time, etc.

OECD report

Some rights and obligations suggested for Taxpayer's Charter:

Rights	Obligations
To be informed assisted and heard	Being honest
To appeal	Co-operate
To pay only correct amount of tax	Provide accurate information and documents on time
Certainty	Keep records
Privacy	Pay taxes on time
Confidentiality & secrecy	

Ref# https://www.oecd.org/tax/administration/Taxpayer's_Rights_and_Obligations-Practice_Note.pdf

Evolution of Taxpayer's Charter

- The United Kingdom was the first to adopt a Taxpayer's Charter, in 1986.
- Some countries developed customised Charter, for example USA introduced Taxpayer Bill of Rights initially in 1996 which later was revised in 1998 and Taxpayer Bill of Rights was introduced.
- Broadly, Taxpayer's Charter have been introduced by countries in any of the following approaches:

Administrative, which focuses on protecting and enhancing quality of regular interaction between the taxpayer and the tax administration team

Legislative charter protects taxpayer from breach of legal rights in relation to the applicable tax laws

A combination of legislated rights and administrative charter where there is legal framework to protect rights and effective compliance

Taxpayer's Rights

Taxpayer's general Rights based on different countries selected for comparison such as USA, UK, Canada, Qatar, Australia, Hongkong, New Mexico, Kenya, Ireland, and New Zealand

- Right to be treated honest;
- Right to privacy and confidentiality;
- Right to be represented by any other person;
- Paying only the tax due under the law;
- Right to be treated fairly and reasonably;
- Right to be treated in a professional manner;
- Right to appeal;
- Right to consistency and equity;
- Right to Question the Authorities;
- Right to have the costs of compliance considered when administering tax legislation;
- Right to get the access to the information the authorities hold about the taxpayers;
- Right to tackle those who bend and break rules.

Taxpayer's Obligations

Taxpayer's general Obligations includes

- Be honest and truthful
- Keep accurate and required records
- Take reasonable care to avoid mistakes
- Lodging by the due date
- Paying by the due date
- Being cooperative

Having a balance between rights and obligations is important for effective implementation of Taxpayer's Charter. For example, taxpayer's right to presumption of honesty is the basic right of the taxpayer. However, considering the practical scenario, such as the increase in tax evasion, a balance is required by affixing obligation on the taxpayer to be honest as well.

Taxpayer's Charter in various countries

The United States of America

- Taxpayer Bill of Rights introduced in 1988 and later adopted the same in 2014.
- These rights are codified in the Internal Revenue Service code, thereby ensuring compliance of the same.

Canada

- Taxpayer Bill of Rights introduced in 2007 lists 16 rights of taxpayer – both legislative and administrative in nature.
- It has a peculiar right that helps reduce compliance cost, especially for small businesses.

The United Kingdom

- First drafted its taxpayer rights in 1986. It was finally introduced in 2009 and amended/ updated in the year 2016.
- It specifies rights of a taxpayer, the level of fairness to expect from Her Majesty's Revenue & Customs and the obligations of the taxpayer
- The UK Taxpayer's Charter compensates taxpayers who suffer damage as due to inappropriate action taken by tax officers.

Taxpayer's Charter in various countries

Australia

- Introduced in the year 1997 and revised later in November 2003
- Australia is one of those countries which has successfully implemented Taxpayer's Charter and as on date, has achieved great results in improving tax administration
- The Country has reassured a harassment free tax environment to its taxpayers. One of the best practices followed by Australian Tax Authorities is - Publishing Revenue's interpretation, opinions, or guidance on tax provisions.
- The country has seen significant increase in the rate of voluntary compliance made by the taxpayers due to the increased value provided by the Tax Authorities as provided in Taxpayer's Charter
- The Australian Tax Office consistently reviews performance of the Taxpayer's Charter and updates it based on the reviews received from public which helps to build mutual trust and increases mutual co-operation

Former Charter



CBDT first adopted a "Citizen's Charter" in 1998 which was revamped in 2007, in 2010 and then in 2014

The Citizen's charter provided for Mission, Vision and belief of Tax Department; rights and obligations of taxpayer and time limits within which tax authorities should issue refund, give effect to appellate/ revision orders etc.

Citizen's Charter did not have the legal protection and did not bring out the major change in the tax administration

Tax Administration Reform Committee

Tax Administration Reform Committee provided its first report under the chairmanship of Dr. Parthasarathi Shome in 2014 pointing out the failings in Citizen's Charter and providing recommendations. Some of the recommendations were:

- Officers and staff at all levels of tax administration should be trained for customer orientation
- In line with the international practice of spending 10-15 per cent of the administration's budget
- In redressing taxpayer grievances, the decision of the Ombudsman should be binding on tax officers
- There is an urgent need to revisit the present citizen's charter to make it more meaningful and customer focused
- The citizen's charter should be renamed the taxpayer's charter to focus on all categories of taxpayers
- Continuous benchmarking of the tax administration, particularly in relation to delivery of taxpayer services

Taxpayer's Charter

- The Union Finance Minister highlighted the requirement to create a trust-based tax environment in Financial Year 2020-2021 budget proposals. Accordingly, an introduction to Taxpayer's Charter was made in the Union Budget
- India introduced Taxpayer's Charter to boost trust between the citizens and the Authorities - through insertion of new section 119A in the Income Tax Act 1961,
 - CBDT empowered to adopt and declare Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other Income-Tax Authorities as it may deem fit for the administration of the Charter
- On 13 August 2020, Transparent Taxation was launched - honouring the honest, platform encompassing faceless assessments, faceless appeals, and Taxpayer's Charter

Taxpayer's Rights

A list of 14 obligations of the Revenue gives a broad understanding of the level of services the taxpayers can expect

Taxpayer's rights	
1. To provide fair, courteous, and reasonable treatment	8. To maintain confidentiality
2. To treat taxpayer as honest	9. To hold the Authorities accountable
3. To provide mechanism for appeal and review.	10. To enable representative of choice
4. To provide complete and accurate information	11. To provide mechanism to lodge complaint
5. To provide timely decisions: The Tax Department shall take decisions within the prescribed timeline	12. To provide a fair and just system
6. To collect the correct amount of tax.	13. To publish service standards and report periodically
7. To respect privacy of taxpayer	14. To reduce cost of compliance

Taxpayer's Obligations

Taxpayer's Charter of India expects the taxpayers to follow some obligations which are listed below

Taxpayer's obligations

1. Obligation to be honest, and compliant: Taxpayer is expected to honestly disclose full information and fulfil his compliance obligations	4. Obligation to know what the representative does on his behalf: Taxpayer is expected to know what information and submissions are made by his authorised representative.
2. Obligation to be informed: Taxpayer is expected to be aware of his compliance obligations under tax law and seek help of department if needed.	5. Obligation to respond in time: Taxpayer is expected to make submissions as per tax law in timely manner.
3. Obligation to keep accurate records in accordance with the law	6. Obligation to pay in time: Taxpayer is expected to pay amount due as per law in a timely manner

Administration of Taxpayer's Charter

- Effectiveness of the Taxpayer's Charter will depend on how it is approached both by the Taxpayer's and the Tax Authorities, and the orders, instructions, directions or guidance issued by the CBDT for effectively implementing Taxpayer's Charter.
- Taxpayer's Charter in India is backed by statutory provision. However, as regards to implementation/ administration, the following questions will have to be addressed:
 - When there is non-compliance by Tax Officers, how will it be dealt?
 - What are the procedures available to a taxpayer to seek relief relying on Taxpayer's Charter?

Taxpayer's charter cell will be formed under Principal Chief Commissioner of Income-tax in each zone for raising any compliance issues under the Charter. Hopefully, this compelling measure will necessitate a structured approach in providing service to a taxpayer.

QUESTIONS?