

## **Taxpayer's Charter**

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## I. INTRODUCTION

Tax levied directly on income earned or indirectly on sale of goods and provision of services are major sources of revenue for any Government to provide services or facilities to the public. Developing policies to raise tax revenues has hence always been crucial. An effective tax system creates better economic situation in a country, whereas a tax system not under control could create disaster.

Tax administration team is entrusted with this vital role of effective collection and utilization of tax revenue. The importance of good tax administration has been emphasised by OECD (Organisation for Economic Co-operation and Development) which is an intergovernmental economic organization, founded in 1961 to stimulate economic progress and world trade. The OECD in its report<sup>1</sup> has provided some guidelines for good tax administration, which includes applying law in a fair and transparent manner, communicate to the taxpayer their rights and obligations, deliver quality information and treat inquiries, request and appeals from taxpayers, keeping confidentiality of the taxpayer information, developing good relation with the taxpayers etc.

A recommended administration is not just a one-way process affixing responsibility on the tax administration team. There are also certain basic obligations to be followed by the taxpayer to make the effort effective. The tax administration team is therefore required to encourage the taxpayers to fulfil tax obligations in a timely manner, to provide the taxpayers necessary services facilitating them to discharge their liability, encourage them to voluntarily register under the tax laws, provide the taxpayers with tutorials to educate them on relevant tax laws applicable and their compliance requirements, etc.

The responsibility of having an effective tax system has seen follow-up challenges as well. The taxpayer fears levy of excessive tax or double taxation on their income, whereas the tax administration dreads tax planning and tax evasion. This situation posed requirement for a well informed and thoughtful tax administration procedure to be in place.

Given this background, let us understand some of the common issues/ challenges faced by the Tax administration team/ Tax Authorities and the Taxpayers in complying with the tax policies.

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<sup>1</sup>Organization for Economic Co-operation and Development (OECD), Principles of Good Tax Administration (Practice Note GAP001, 2001) - (<https://www.oecd.org/tax/administration/1907918.pdf>)

## **CHALLENGES FACED BY THE TAX ADMINISTRATION TEAM**

### **1. Inadequate training in understanding complex tax procedures**

If the Tax Authorities (the team competent to impose, assess or enforce any liability to tax) are not well educated and trained adequately on complex taxation laws, it could result in unreasonable adjustment on the income disclosed by the taxpayer. This could consume abundant time and litigation cost for the Tax Authorities.

### **2. Loss of tax revenue**

Complex tax laws could provide opportunity for taxpayers to adopt multiple tax positions, interpretations, tax planning, etc., resulting in tax leakage.

### **3. Prolonged litigation**

Non-availability of trained resources among Tax Authorities who could handle litigation, may result in excessive litigation unresolved.

### **4. Piling up of queries/ requests made by the taxpayers**

Several reasons could contribute to stacking up of pending cases of audit/ litigation before the Tax Authorities like, non-cooperation by the taxpayers, shortage of resources, lack of trained Tax Authorities, lack of strict timeline for completion of pending cases, etc.

### **5. Administrative costs**

This mainly includes costs of running and maintaining tax system such as cost of maintaining website, cost of handling the litigations, office expenses and costs relating to formulation and implementation of tax policies, cost of running and maintaining tax administration team, salaries to staffs, pensions to the retired ones, office expenses including the facilities provided to the team at work.

## **CHALLENGES FACED BY THE TAXPAYERS**

### **1. Understanding complex tax provisions**

Lack of awareness/ understanding of complex tax procedures itself could be one of the major contributors to non-compliances in India. Further, to protect the tax base, Tax Authorities take unilateral measures and amend tax provisions frequently to make it more complex. Also, retrospective amendments to tax laws makes it all the more complex, which is an India-specific problem.

### **2. Compliance cost**

Compliance of tax provisions has consequential operating costs for the taxpayer. First cost being the tax itself. Second, being the cost incurred in adhering to the tax provisions – which includes hiring a tax expert or a competent team in-house depending on the level of compliance, consulting/ professional charges paid to a consultant.

Adhering to complex tax procedures leaves no option to the taxpayers, but to depend on consultants/ tax experts for categorising the income, determining the tax liability therein, disclosing the income in appropriate form as part of compliance, etc. Certain countries also mandate certification of accounts by eligible tax experts.

With the increase in compliance burden these costs could be high and significant, sometimes, even more than the tax cost.

### **3. Fear of double taxation**

As regards to domestic transactions and international transactions, most Governments have taken initiatives to curb double taxation in the hands of taxpayers. However, these provisions do not provide protection in all scenarios. The resultant fear of double taxation is one of the major causes for vehement tax planning made by the taxpayers.

#### **4. Aggressive taxation measures**

Aggressive tax audit measures adopted by the Tax Authorities have created a perception in the taxpayers of most countries that Tax Authorities are not approachable and would never look at a fair tax position.

Delay in receipt of refunds, vexatious disputes in tax matters, indecisive timelines, etc. are some more contributors to lack of legal certainty in several countries. This, to a great extent discourages taxpayers from voluntary compliance of tax laws.

Challenges not restricted to the above, have resulted in disparity in wavelength of the taxpayers and Tax Authorities. Authoritative position of the Tax Authorities over taxpayers, presumption of dishonest taxpayer resulting in niggling assessments for any unintentional error or procedural lapse committed by the taxpayer, etc. results in negative attitude for the taxpayers towards voluntary compliance.

Even more, abiding to the tax policies does not come for free. Costs are incurred at both the ends – by tax administration team and by the taxpayer. When both are aware of the responsibilities and the relevant procedures, consequent cost i.e., administrative cost for the Government and compliance cost for the taxpayer can be minimised.

Under this scenario, having procedures acceptable for both the ends became a necessity rather than an option for a healthy tax environment. Measures had to be adopted to encourage taxpayers for voluntary compliance. This led to the introduction of Taxpayer's Charter in several countries.

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

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.

The OECD stated that *“The ways by which revenue authorities interact with taxpayers and employees, impact public perception of the tax system and the degree of voluntary compliance. Taxpayers who are*

*aware of their rights and expect, and in fact receive, a fair and efficient treatment are more willing to comply<sup>2</sup>".*

Taxpayer's Charter aims at improving mutual trust and cooperation between the Taxpayer and the Tax Authorities through protection of taxpayer's rights and by imposing certain obligations on the taxpayer which helps in better administration of the tax system.

The same way citizens are expected to pay the legitimate tax they owe the Country; the tax office is also expected to be transparent with the taxpayers. Commitment to build positive relationship with every taxpayer, will help to implement a non-discriminatory Taxpayer's Charter.

This paper provides thoughts on how the Tax Authorities should perform good practice as set in the Taxpayer's Charter. Furthermore, the paper suggests future work on how adherence to the Charter contributes to conditions that many regard as fundamental to good governance.

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<sup>2</sup> Organization for Economic Co-operation and Development (OECD), Principles of Good Tax Administration (Practice Note GAP001, 2001), p 3. 9 - (<https://www.oecd.org/tax/administration/1907918.pdf>)

## II. EVOLUTION OF TAXPAYER'S CHARTER

Post-World War II, the UN General Assembly adopted Universal Declaration of Human Rights in 1948. The document expressed the principle that everyone is entitled to peaceful enjoyment of their own possessions, of which they cannot be deprived except by rule of law. There is no explicit mention that this document is legitimate for the countries to levy taxes.

For many years after that, taxpayer's rights were not given as much importance as human rights. Taxpayer's rights are closely related to human rights. Human rights subsume taxpayer rights. Therefore, developments in human rights also substantially affect taxpayer's rights.

Almost forty years later, countries started realizing the requirement for co-operation between the taxpayer and tax administration. Governments began to consider more targeted Charters to cover the rights of taxpayers.

With a focus on importance of tax policies, the OECD had suggested that, Tax Authorities issue a Taxpayer's Charter consisting of basic taxpayer's rights and obligations.

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 of the survey conducted by OECD was published, which 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. After this report some countries began to publish bills of taxpayer's rights.

These expected behaviors were believed to be fundamental to the successful operation of taxation systems. Without this balance of taxpayer's rights and obligations taxation systems could not function effectively and efficiently.

Further, IBFD (International Bureau of Fiscal Documentation) in its report<sup>3</sup> “Towards Greater Fairness in Taxation: A Model Taxpayer Charter”, has provided model rights and obligations based on the provisions which were derived from a survey of taxpayer rights and responsibilities in 41 countries, collectively representing over 80 per cent of world GDP (Gross Domestic Product).

The report has spelled out guiding principles of Taxpayer Charter in Rights and Responsibilities from which more specific provisions which follow can be largely defined:

<b>Taxpayer’s Rights</b>	<b>Taxpayer’s Responsibilities</b>
Integrity and equality	Be truthful
Certainty	Provide information
Efficiency and effectiveness	Be co-operative
Appeal and the right to dispute resolution	Make payment
Appropriate assistance	Comply with the law
Confidentiality and privacy	Maintain records
Pay correct amount of tax	Take due care
Representation	Retain responsibility for advisors
Proportionality	Show courtesy
Honesty	Comply cross border

Many countries around the world as mentioned above, have elaborated these basic rights and obligations in the Taxpayer’s Charter they drafted. Even countries without a Taxpayer’s Charter attach equal importance to taxpayer’s rights.

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 3 was introduced.

As on date, several countries around the world have successfully introduced Taxpayer’s Charter. The United Kingdom was the first to adopt a Taxpayer’s Charter, in 1986. A number of countries have subsequently adopted Taxpayer’s Charters in the past three decades - Canada (Declaration of Taxpayer’s Rights–1985), France (Taxpayer Charter– 1987), New Zealand (Statement of Principles–

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<sup>3</sup> Towards greater fairness in taxation -A Model Taxpayer Charter by Michael Cadesky, Ian Hayes, David Russell  
[https://www.ibfd.org/sites/ibfd.org/files/content/pdf/16\\_001\\_Towards\\_Greater\\_Fairness\\_in\\_Taxation\\_final\\_web.pdf](https://www.ibfd.org/sites/ibfd.org/files/content/pdf/16_001_Towards_Greater_Fairness_in_Taxation_final_web.pdf)

1986), England (Taxpayer Charter– 1986), the USA (Taxpayer Bill of Rights–1988), Turkey in 2006, Australia, Italy, Ireland, South Africa, Philippines, Russia, Spain, Uganda, etc.<sup>4</sup>

Broadly, Taxpayer's Charter have been introduced by countries in any of the following approaches<sup>5</sup>:

1. Administrative, which focuses on protecting and enhancing quality of regular interaction between the taxpayer and the tax administration team
2. Legislative charter protects taxpayer from breach of legal rights in relation to the applicable tax laws and
3. A combination of legislated rights and administrative charter where there is legal framework to protect rights and effective compliance

Countries like Belgium, Brazil, Chile, Italy, USA, Kenya, and Mexico are some of the countries which have Taxpayer's Charter as part of their statute. Most of the countries have Taxpayer's Charter that is administrative in nature. Countries like Australia, Canada, Qatar, Hongkong, New Zealand, Ireland are some of the counties which have Taxpayer's Charter as administrative guidelines but do not have protection of the statute. Many countries have taxpayer's rights and obligations in judicial precedents or any other legislation, but not in a comprehensive document.

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<sup>4</sup> An empirical analysis of taxpayers' fairness preferences from Canada's Taxpayer Bill of rights by Jonathan Farrar (<https://pdfs.semanticscholar.org/443b/7701b18b6b76cd12cebd745a1e1cc7f6c65a.pdf>)

<sup>5</sup> The taxpayers charter -A case study in tax administration by Simon James, Kristina Murphy, Monika Reinhart ([https://www.researchgate.net/publication/29811451\\_The\\_Taxpayers'\\_Charter\\_a\\_case\\_study\\_in\\_tax\\_administration](https://www.researchgate.net/publication/29811451_The_Taxpayers'_Charter_a_case_study_in_tax_administration))

### III. CONTENTS OF TAXPAYER'S CHARTER

Taxpayer's Charter aims at encouraging mutual trust and respect between the Tax administration and the taxpayer. It is a two-way initiative where the Government intends to serve the taxpayer in a fair and efficient manner, at the same time it must be firm with those who try to avoid their obligations.

Mostly, Taxpayer's Charter drafted by each country includes two set of Rules, one set on taxpayer rights, which elaborates on what a taxpayer can expect from the Tax Authorities and the second set being taxpayer obligations, which discusses on what is expected from a taxpayer.

Taxpayer's rights can be explained as the rights given to taxpayers in the legal relationship between the state and the taxpayer in the taxation process.<sup>6</sup>

Assigning responsibilities and obligations to each role is a practice set by most democratic societies. Taxpayers and Tax Authorities are no exception to this. Precisely, for this reason, most of the countries have laid down legislations governing taxpayer's rights and obligations.

In many countries, taxpayer's rights and obligations are provided in various places of the legislation but not in a separate comprehensive document. Taxpayer's Charter is a comprehensive document where taxpayer's rights and obligations are listed in single place.

Considering the diversity of environment, it is difficult to have blanket rights and obligations applicable globally. Although basic rights and obligations could be identified, each country had to fine tune the same based on their environment.

Below, we have listed rights and obligations which are generally found in the Taxpayers' Charter of different countries selected for comparison such as USA, UK, Canada, Qatar, Australia, Hongkong, New Mexico, Kenya, Ireland, and New Zealand

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<sup>6</sup> A comparative analysis of taxpayer rights in Turkey and the USA  
(<https://pdfs.semanticscholar.org/d64c/e1b473726e644489300dcd3909e464f8d3dd.pdf>)

## **GENERAL RIGHTS-SEEN IN MOST COUNTRIES TAXPAYER'S CHARTER**

- **Right to be treated honest**

The Tax Authorities should accept the information given by taxpayer as complete and accurate unless they have the reason to believe otherwise.

- **Right to privacy and confidentiality**

Information regarding the taxpayer such as personal, financial information, etc. should be kept confidential and should not be shared with others except as required by law.

- **Right to be represented by any other person**

Taxpayers can authorise anyone to represent them in front of the Tax Authorities on their behalf. However, he will still be responsible for discharging any liability under the Act.

- **Paying only the tax due under the law**

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties. Further, the Tax Authorities have to apply all tax payments properly.

- **Right to be treated fairly and reasonably**

Taxpayers should be treated with courtesy and consideration by the Tax Authorities.

- **Right to be treated in a professional manner**

The Tax Authorities should act within the powers conferred by law and should deal with the taxpayers in a professional way.

- **Right to appeal**

If taxpayers are not satisfied with the service of Tax Authorities, they have the right to give complaint to the Tax Authorities or to the ombudsman. If the taxpayer disagrees with the amount of their tax assessment, they have the right of objection and appeal.

- **Right to consistency and equity**

Tax Authorities should apply the law consistently so that everyone pays the right amount of tax. Tax Authorities should take the circumstance of the taxpayer into consideration as far as the law allows.

- **Right to Question the Authorities**

Taxpayers have the right to question the information, advice and service provided to them. Tax Authorities should inform the taxpayers about option available for resolving disagreements and they will reach out to the taxpayers to reach an outcome quickly and simply.

- **Right to have the costs of compliance considered when administering tax legislation**

Tax Authorities should consider the cost of compliance of taxpayers while administering the tax legislation. They should make honest efforts to keep the compliance cost at the minimum

- **Right to get the access to the information the authorities hold about the taxpayers**

Taxpayers are entitled to access their own information which is held by the Tax Authorities as authorized by the law.

- **Right to tackle those who bend and break rules**

The Department should identify those who are not paying tax to the extent they owe or are claiming more than they should and recover the money and differentiate them from those who are prompt in discharging their tax liability. The Department should charge interest and penalties where appropriate and it should be fair and reasonable on how they use their powers. Specifically, there can be no bias in applying the same.

## **RIGHTS SPECIFIC TO CERTAIN COUNTRIES TAXPAYER'S CHARTER**

### **Canada**

- **Right of not paying disputed amount of income tax before having an impartial review**

The taxpayer can object the assessment and reassessment if he feels that the law was applied incorrectly. He can do so by providing proper explanation to the Authorities and evidence to prove that such assessment or reassessment was not done properly. In such cases, the assessee will have to pay only the disputed amount of taxes.

- **Right to lodge a service complaint and to be provided with an explanation of Tax Authorities, findings**

The taxpayers have the right to raise a service complaint if they encounter with difficulties such as misleading information, staff behaviour, undue delays, mistakes etc. They will be heard and provided with the proper solution by the Authorities.

- **Right to expect Tax Authorities to be accountable**

Taxpayers have the right to expect the Tax Authorities to be accountable for their actions and their decisions about the taxpayers and their service commitment towards taxpayers.

- **Right to relief from penalties and interest under tax legislation because of extraordinary circumstances**

The taxpayers should be given relief from payment of penalties and interest under tax legislation where the default of the taxpayer was on account of extraordinary circumstances which was beyond the control of the taxpayers.

- **Right to expect Tax Authorities to publish service standards and report annually**

Service standards serve as a basis to measure the performance of Tax Authorities towards their commitment to the public. The Tax Authorities should set the service standards and measure their performance and publish such reports annually and same is made available in public domain.

- **Right to expect to warn about questionable tax schemes in a timely manner**

The taxpayers can expect the Tax Authorities to provide the information about the questionable schemes of the Department which are under their strict scrutiny.

- **Right to request a formal review without fear of reprisal**

If the taxpayer wants a decision or action to be reviewed including, legal review. He can lodge a complaint and get it reviewed.

### **United States of America**

- **Right to be informed**

Taxpayers are entitled to know the procedures and are entitled to clear the explanations which will help them in complying with the tax laws.

- **Right to quality service**

Taxpayers can expect courteous, prompt, and professional assistance from the Tax Authorities in dealing with them.

- **Right to challenge Tax Authorities position and be heard**

The taxpayers can provide additional information and documentation to the Tax Authorities and expect the Tax Authorities to consider them in dealing with their tax matters.

- **Right to finality**

Taxpayers have the right to know the maximum amount of time they must challenge the Tax Authority's position as well as the maximum amount of time the Tax Authorities must audit a tax year or collect a tax debt.

## United Kingdom

- **Right to be deal with complaints quickly and fairly**

The Tax Authorities should resolve the taxpayer's complaints quickly and in a timely manner. If the authorities fail to do so, the authorities should work with someone who has not been involved in taxpayer's dispute.

## Australia

- **Right to get the things right**

Tax Authorities must help to understand taxpayer's rights and obligations.

- **Right to get the explanation made about the taxpayers**

Tax Authorities should inform the taxpayers about their rights and obligations and take decision.

- **Make it easier for taxpayers to comply**

The Tax Authorities will inform the taxpayers of any rights or obligations and keep them informed of their progress to resolve issues

## Qatar

- **Providing helpful and efficient service**

The Tax Authorities should help the taxpayers in understanding and meeting their obligations. They should also provide the taxpayers with updated information in clear and plain language. They should also resolve the taxpayer's concerns, problems, or complaints in a timely manner.

## **Kenya**

- **Right to information**

The taxpayers are entitled to complete and accurate information on their acts and obligations under the various Acts.

- **Right to identification**

The taxpayer has the right to demand official of the Tax Authority for the identification card while visiting or serving the taxpayer on official duties.

- If the taxpayer is selected for an audit, he has the right to notified in advance.
- He has the right to dispute an assessment or object the concerned authority's decision as specified by law.

## **New Zealand**

- **Reliable advice and information**

Tax Authorities should provide the taxpayers with reliable and proper information about their rights and obligations. They should also make sure that the staff of the Tax Authorities are well trained and cater to the needs of the taxpayers in providing updated and timely information.

## **Ireland**

- **Right to make complaint**

Tax Authorities should deal with the complaints of taxpayers promptly and in an impartial way and assure the taxpayers that availing of this procedures will never prejudice their rights to raise issues with:

- Ombudsman
- The Workplace Relations Commission under the Disability Act or
- Make an appeal to the Independent Appeal Commissioner, where appropriate.

## **Mexico**

- Right to available public information and prompt, courteous tax assistance.
- Right to have audits, inspections of records and meetings take place at a reasonable time and place
- The right to have the Department conduct its audits in a timely and efficient manner and be entitled to the correct calculation of interest as provided in the Tax Administration Act
- The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest, appeals and collection proceedings under the Tax Administration Act.
- The right to an explanation of audit results and the basis for audits, assessments or denials of refund that identify tax, interest, or penalty due.
- The right to seek review, through formal or informal proceedings, of findings or unfavourable decisions that occur during audit or protest procedures
- The right to abatement (forgiveness) of an assessment of taxes that has been incorrectly, erroneously, or illegally made and a right to seek a compromise of a stated tax liability. When the Secretary of Taxation and Revenue in good faith doubts that you owe us the amount of claim, you have the right to seek compromise if a way exists in taxpayers' particular case.
- The right to clear information about penalties if a tax assessment is not paid, secured, protested, or otherwise provided for
- The right to timely notice of collection actions that require sale or seizure of your property under the Tax Administration Act, and
- The right to ask to pay your tax obligations by instalment agreements.

It can be noticed that different types of rights are provided in Taxpayer's Charter, which can be broadly classified as rights which are *protected by the legislature*, and rights which are provided in the *administrative guidelines*.

Each country has their customised Taxpayer charter providing those rights and obligations which they believe are necessary in their tax system. One of most important administrative right to a taxpayer is 'presumption of honesty'. Curiously, certain countries do not have in the rights prescribed for taxpayer, the 'presumption of honesty'. Canadian Taxpayer Bill of Rights is a typical example.

Right to appeal, right to review, right to be represented by someone else on our behalf, right to be heard, etc. are protected both by legislative and administrative guidelines and are enforceable under law. Whereas, right to information in taking the decision, right to quality service, right to expect the Tax Authorities to be accountable are the rights which are not provided in the legislation but are expressly provided in the certain Taxpayer's Charters. Enforcement of such rights will be possible if the Taxpayer's Charter of such country is not in the form of administrative measures but has the protection of statute.

The disadvantage when taxpayers' rights are not protected by law is that the taxpayer cannot appeal in Court in case of violation of such right, however, such violation can be reviewed based on principles of natural justice. Tax Authorities may provide protection of such rights to taxpayers, but usually exercise of protection and the existence of that protection remain at the discretion of the Tax Authorities<sup>7</sup>.

Another vital right provided by most countries is *right to privacy*. Off late, there is increasing requirement for transparency and this has resulted in privacy concern for taxpayers. A balance needs to be obtained between right to privacy and requirement for transparency. More requirement for international co-operation is expected considering the nature of activities of taxpayers -like country of residence, country of source, country of market, and country where assets are held. There are no boundaries to taxpayers, and this has resulted in increased challenges to taxpayers as well as Tax Authorities.

It is important that the taxpayer's rights should be protected even when the information of such taxpayers are exchanged between the countries under various agreements and arrangements. To curb

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<sup>7</sup> A Model of Taxpayers' Rights as a Guide to Best Practice in Tax Administration by Bentley, Robert ([https://pure.bond.edu.au/ws/portalfiles/portal/28897742/bentleyd1\\_Full.pdf](https://pure.bond.edu.au/ws/portalfiles/portal/28897742/bentleyd1_Full.pdf))

tax evasion and tax avoidance, several agreements are entered between the countries to exchange the taxpayer's information, some of the measures are listed below<sup>8</sup>.

- Tax Information Exchange Agreements (TIEA) - Aims at achieving international co-operation through exchange of information (i.e. taxpayer's information)
- Exchange of Information on request - Under this scheme the Tax Authorities of one jurisdiction requests for information of specific person or the specific case from another jurisdiction. It is to be noted that under this arrangement only the specific detail regarding the taxpayer for an investigation is asked for.
- Automatic exchange of information - Under this arrangement, bulk taxpayer's information in general is transmitted from the source country to the residence country periodically.
- Foreign Exchange and Tax Compliance Act - Reporting obligation of information in respect of offshore financial accounts maintained by the US residents and citizens.

The main concern of taxpayer's under such arrangements is maintenance of privacy and confidentiality of the data that is been shared with the Tax Authorities of the other jurisdiction. It is the responsibility of each Country to ensure that the information held by the Authorities relating to the taxpayers are treated confidential by the Tax Authorities of such country where the taxpayer is residing. The information should be strictly protected from unauthorised use and should be used only for the purpose it is obtained and to the extent allowed under the specific law of the country.

However, there are no such rules or regulations provided under the Act or the relevant DTAAs, TIEAs, which protects the secrecy and the confidentiality of the data that is exchanged between the countries. They do not mostly contain participation rights for taxpayers, such as the right to be notified or object to the Exchange of Information procedure. Globally, there is no general practice in informing the taxpayers that their information is sent to a different jurisdiction – only limited countries like Germany, France, Switzerland, etc. notify taxpayers.

Even Article 4(3) of the Multilateral Convention on mutual administrative assistance in tax matter merely states that: '*any Party may indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him*'. This is supported even

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<sup>8</sup> Taxpayer rights in International Exchange of Information by P.C.Khincha, Neha P.Khincha and PriyaKothari

by the OECD commentary which says that even if such procedures are present in the legislation of such countries, exchanging the information should not create a problem for the requesting country to carry the investigation effectively<sup>9</sup>.

OECD recommends that the taxpayers are informed so that the taxpayers can grant their support and also, any confusion can be avoided<sup>10</sup>. Article 26 of the OECD Model Tax Convention requires the requesting state to demonstrate the foreseeable relevance. Foreseeable relevance requires the requesting state to explain how the information requested would help in collecting taxes, investigation and assessment and the information asked should be relevant for such purposes at the time when such request was made. This helps in preventing the Tax Authorities of the other jurisdiction from engaging in fishing expedition (i.e. speculative requests that have no apparent nexus to an open enquiry or investigation).

Where there is no provision under the exchange of information arrangements (International framework) to protect the taxpayer's rights, the taxpayers have to resort to the provisions available under the domestic laws of the country. However, as the purpose of such arrangements is exchange of information to curb tax avoidance and tax evasion, domestic laws also do not contain any provision to protect the taxpayer's rights of privacy and confidentiality.

It is to be noted that the for the juridical balance, protection of taxpayer's rights and procedures and sanctions under the TIEAs should go hand-in-hand. In this respect, it is in the good interest of the Tax Authorities and the Taxpayers that the Taxpayer's Charter provide specific provisions which are not present in the domestic laws to protect the taxpayer's confidentiality and privacy under such agreements.

The main intention of proving specific rights in the Taxpayers' Charter is to protect the taxpayers from unnecessary harassment by the Tax Authorities and hence, the Tax Authorities should respect the rights of taxpayers and increase the mutual trust between them which will contribute to a better tax administration system. It is to be ensured that protection of taxpayer's rights is not only limited to the tax laws but also extends to the various information exchange arrangements entered into between different countries.

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<sup>9</sup> The Evolution of the Exchange of Information in Direct Tax Matters: The Taxpayer's Rights under Pressure by Niels Diepvens & Filip Debelva  
[https://www.researchgate.net/publication/304015469\\_The\\_Evolution\\_of\\_the\\_Exchange\\_of\\_Information\\_in\\_Direct\\_Tax\\_Matters\\_The\\_Taxpayer's\\_Rights\\_under\\_Pressure](https://www.researchgate.net/publication/304015469_The_Evolution_of_the_Exchange_of_Information_in_Direct_Tax_Matters_The_Taxpayer's_Rights_under_Pressure)

<sup>10</sup> OECD, "Commentaries on the Articles of the Model Tax Convention," at 404 (2010)  
<https://www.oecd.org/berlin/publikationen/43324465.pdf>

In addition to rights, taxpayers should also fulfil certain obligations set out in the Taxpayer's Charter. This will help the Tax Authorities in discharging their duties in effective and efficient manner.

Out of the countries which are selected for the comparative study, countries such as United Kingdom, Australia, Qatar, Hongkong, Kenya, Ireland along with the rights provided in the charter also entrust the taxpayers with certain obligations.

An overall list of obligations which are entrusted on the taxpayers in the Taxpayer's Charter mentioned above are listed here under:

## **GENERAL OBLIGATIONS-SEEN IN MOST COUNTRIES TAXPAYER’S CHARTER**

- **Be honest and truthful**

Taxpayers should disclose proper details and the correct amount of income in their tax return and all the other correspondences required with the Tax Authorities. They should be honest in their communication with the Tax Authorities.

- **Keep accurate and required records**

Taxpayers should keep accurate records which are required under law and should produce them as and when called for by the Tax Authorities.

- **Take reasonable care to avoid mistakes**

Taxpayers should take reasonable care to avoid mistakes when they send information to the Tax Authorities regarding payments of their taxes, claims or reliefs and provide complete and accurate information in their tax returns, activity statements and other documents they provide

- **Lodging by the due date**

The documents such as tax returns, activity statements, and other information must be lodged or returned by certain dates. If taxpayers are having difficulty complying with these dates, they should contact the Authorities before the document or information is due. Depending on the circumstances, the Tax Authorities will allow them to lodge it beyond due date with applicable charges.

- **Paying by the due date**

The taxpayers should pay taxes by the due date. However, if they have difficulty in paying the same, they should inform the concerned Authorities preferably before the due date. In such case the Authorities may extend the time to pay such amount without charging interest or negotiate to pay in installments.

- **Being cooperative**

Taxpayers should cooperate in all communications and dealings with the Tax Authorities. They should provide them with all the relevant information and details asked for and should help the Tax Authorities in discharging their duties.

## OBLIGATIONS SPECIFIC TO CERTAIN COUNTRIES TAXPAYER'S CHARTER

### United Kingdom

- **Work with the authorities to get things right**

The taxpayers should make sure that they are paying the right amount of tax and claiming the correct amount of money. If they are doubtful regarding the same, they should communicate with the Tax Authorities and get the right information.

- **Find out what you need to do and keep us informed**

Taxpayers should make sure that they know how to pay tax and claim payments and get in touch with the authorities as soon as possible if they need any help.

- **Know what your representative does on your behalf**

The taxpayers should make sure that they know what information and payments their representative sends to the Tax Authorities. Make sure that the information and payments are accurate and provided on time.

- **Respond in good time**

Taxpayers should send the returns and pay any amounts they owe on time and pay any interest on late payments or penalties promptly to the Tax Authorities

### Qatar

- **Know the responsibilities**

Taxpayers are expected to know their compliance requirements under the law. They should know how to register themselves in the tax system, file the tax return, pay the tax, and claim refund on time.

## **Hongkong**

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- **Keeping the Tax Authorities informed**

Taxpayer should inform the Tax Authorities in case if any change in business or correspondence address.

## **Kenya**

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- **Claims and refunds**

Taxpayers have the obligation to make the refund claim within the time stipulated failure of which will not be processed as stipulated in the law.

- **Objections**

In case of any objections, the taxpayer is required to pay the undisputed amount of tax to the Tax Authorities

## **Ireland**

- **Courtesy and consideration**

Taxpayers should treat the Revenue officials with courtesy and should provide them with all the required information for discharging their duties.

- **Information and Assistance**

The taxpayers should provide the Tax Authorities with the accurate and complete information and should inform them of the developments that are relevant to their taxes.

Though all the countries have not expressly mentioned the obligations, the taxpayers should consider them in discharging their duties under the respective Tax Laws. This will assist the taxpayers in better administration.

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.

## **IV. IMPACT OF TAXPAYER'S CHARTER INTRODUCED BY VARIOUS COUNTRIES**

While implementing Taxpayer's Charter various countries have had several thoughts on whether to implement it as legally enforceable or merely administrative guidance.

Let us understand peculiarities of Taxpayer's Charter introduced by some of the countries like – The United Kingdom, The United States of America, Australia, Canada, etc.

### **The United Kingdom**

At first, UK 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 ('HMRC') and the obligations of the taxpayer. It has also taken elaborate grievance redressal measures with judicial review procedures, Adjudicators, Ombudsman, etc.

One of the major highlights about UK Taxpayer's Charter is that it has an efficient mechanism in place for compensating those taxpayers who suffer damage as a result of inappropriate or wrongful action taken by tax officers.

### **The United States of America**

The US Internal Revenue Service introduced the concept of Taxpayer Bill of Rights in 1988 and later adopted the same in 2014. The Federal Charter provided rights of taxpayers who are dealing with the Internal Revenue Service. These rights are codified in the Internal Revenue Service code, thereby ensuring compliance of the same. However, effectiveness of these provisions may not be as anticipated, as the code does not specify legal remedies against actions that violates taxpayer rights.

Resistance to codify legal actions against Internal Revenue Service could be a major reason why such provisions were not codified.

As per the US Taxpayer Bill of Rights, the onus of proving against a taxpayer lies with the Revenue Service, else taxpayer is eligible for refund of attorney's fees, among other requirements.

## Canada

Taxpayer Bill of Rights introduced in Canada in 2007 lists 16 rights of taxpayer while dealing with Canada's Revenue Agency – both legislative and administrative in nature. These rights are administrative in the nature, internally adopted by the Revenue Agency and not an enforceable law.

Grievance redressal for legislative rights are provided in the country's Income Tax Act, whereas grievance redressal of administrative rights is provided through services like Service Complaints process and taxpayer's Ombudsman.

The Canadian Taxpayer Bill has a peculiar, but well appreciated right that helps reduce compliance cost, especially for small businesses. This right aims at letting small businesses focus their energy and resources on growth of their business and the economy.

## Australia

Australian Taxpayer's Charter has listed rights of taxpayer, Services expected from Australian Tax Office and obligations of taxpayer. Unlike US, Australian Taxpayer charter does not create legal rights as the same is not incorporated in the legislation. Although, Australia has introduced Taxpayer's Charter as administrative guidelines, but the basic legal rights are protected by the Law.

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. Post implementation, results of Taxpayer's Charter are released by Australia annually unlike the other countries who have adopted the Taxpayer's Charter. This will give a clear understanding of success in implementing Taxpayer's Charter.

Australian Taxpayers' Charter was introduced in the year 1997 and revised later in November 2003. 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. As per the Commissioner of Taxation annual report for the year 2018-2019, out of the total tax collection, 96% of the total tax collection was through voluntary compliance and only 4% of the collection was through the compliance activities undertaken by the Tax Authorities which is an evident sign for high level of trust the taxpayer have in the Tax Authorities<sup>11</sup>.

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<sup>11</sup> Taxpayers rights in Australia twenty years after the introduction taxpayers' charter by Duncan Bently ([https://www.researchgate.net/publication/316506870\\_Taxpayer\\_rights\\_in\\_Australia\\_twenty\\_years\\_after\\_the\\_introduction\\_of\\_the\\_Taxpayers'\\_Charter](https://www.researchgate.net/publication/316506870_Taxpayer_rights_in_Australia_twenty_years_after_the_introduction_of_the_Taxpayers'_Charter))

As per the survey conducted (Valerie Braithwaite and Monika Reinhart<sup>12</sup>), out of the respondents selected for the survey, majority of the people believed that the Tax office adheres to the obligations set out 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. This helps to build the mutual trust and increases mutual co-operation between the taxpayers and the Tax Department which is especially an important aspect for the success of Taxpayer's Charter.

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<sup>12</sup> The Taxpayers' Charter: Does the Australian Tax Office comply and who benefits by Valerie Braithwaite and Monika Reinhart  
([https://www.researchgate.net/publication/240637923\\_The\\_Taxpayers'\\_Charter\\_Does\\_the\\_Australian\\_Tax\\_Office\\_Comply\\_and\\_Who\\_Benefits](https://www.researchgate.net/publication/240637923_The_Taxpayers'_Charter_Does_the_Australian_Tax_Office_Comply_and_Who_Benefits))

## V. TAXPAYER’S CHARTER INTRODUCED IN INDIA

India is known for its aggressive tax practices, be it from the taxpayer or tax administration - given historically its high tax rates. Multiple tax positions, interpretations, aggressive assessments, etc. created uncertainty in the minds of business. Working under the presumption that all taxpayers are tax evaders and levying unreasonable tax demand is one of the major criticisms received by Indian Tax Authorities. Further, long drawn litigation process adds on to the delay in settling tax disputes and there is no tax certainty. Many a times, to avoid spending time on tax litigation, taxpayers resolve the dispute by paying tax even if they do not agree with the demand raised on them.

Some of the major contributors to this thought process is the frequently amended tax laws that creates unpredictable tax environment and the aggressive approach adopted by the Tax Authorities. Both resident taxpayers and non-residents are hesitant when it comes to dealing with taxation regime and the Tax Authorities in India.

In India though Taxpayer’s Charter was not in place until the year 2020, the rights of the taxpayers were protected through the administrative guidelines since 1997. CBDT in the year 2010 introduced the Citizen’s Charter which was later revised in 2014. The Citizen’s Charter included some of the Service Delivery standards, explained the expectations from the taxpayers, obligations of the taxpayer and provided a grievance redressal mechanism.

Some of the service standards included in the Charter are as follows<sup>13</sup>

Sl. No	Services	Time limit
1	Issue of refund along with interest under section 143(1) -For electronically filed returns -others	6 months 9 months
2	Issue of refunds including interest for proceedings other than under section 143(1) of the Act	1 Month
3	Decision on application of rectification	2 months
4	Giving effect to appellate/ revision order	1 Month
5	Acknowledgement of communication received through electronic media or by hand	Immediate

<sup>13</sup> See Citizen’s charter declaration (<https://www.incometaxindia.gov.in/Documents/citizen-charter-declaration.pdf>)

Sl. No	Services	Time limit
6	Decision on application seeking extension of time for tax payment or grant of instalment	1 month
7	Issue of tax clearance certificate under section 230 of the Income tax Act	Within 3 working days from the date of receipt of the application.
8	Decision on application for recognition/approval to provident fund/superannuation fund/gratuity fund	3 Months
9	Decision on application for grant of exemption or continuance thereof to institutions (University, School, Hospital etc.) under section 10(23C) of the I.T. Act	12 Months
10	Decision on application for approval to a fund under section 10(23AAA) of the I.T. Act	3 Months
11	Decision on application for registration of charitable or religious trust or institution	4 Months
12	Decision on application for approval of hospitals in respect of medical treatment of prescribed diseases	3 Months
13	Decision on application for grant of approval to institution or fund under section 80G(5)(vi) of the Income Tax Act 1961.	4 Months
14	Decision on application for no deduction of tax or deduction of tax at lower rate	1 Month
15	Grievance redressal	2 Months
16	Decision on application for transfer in case from one charge to another	2 Months

Citizen's Charter did not have the legal protection and did not bring out the major change in the tax administration. Even with the Citizen's Charter in place, a fulfilling tax administration was only a dream of the taxpayers.

Later, the Tax Administration Reform Committee provided its first report under the chairmanship of Dr. Parthasarathi Shome in 2014<sup>14</sup> pointing out the following on Indian tax administration procedure:

- *‘Officers and staff at all levels of tax administration should be trained for customer orientation. Further for people posted in this vertical, the training in customer focus need to be more specialized and intensive. This training should be appropriate to the areas in which such officers are deployed such as customer relationship, measurement of customer satisfaction, taxpayer education, etc.*
- *In line with the international practice of spending 10-15 per cent of the administration’s budget, a minimum of 10 per cent of the tax administration’s budget must be spent on taxpayer services.*
- *In redressing taxpayer grievances, the decision of the Ombudsman should be binding on tax officers. To bring independence and effectiveness to the office of the Ombudsman, non-government professionals should also be inducted in the post*
- *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, with that of other tax administrations should be done to highlight the area of focus’*

Despite numerous efforts taken by the Government on this aspect, like e-assessment, steps initiated to monitor tax officials, tax administration system, etc. there is still some level of harassment faced by taxpayers.

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. The budget speech mentioned that, *‘Any tax system requires trust between taxpayers and the administration. This will be possible only when taxpayer’s rights are clearly enumerated. Towards this end, and with the objective of enhancing the efficiency of the delivery system*

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<sup>14</sup> First report of the Tax Administration Reform Commission (Tax Administration reform in India -Spirit, Purpose and Empowerment)  
([http://www.nadt.gov.in/writereaddata/MenuContentImages/First\\_report\\_TARC635480254365343004.pdf](http://www.nadt.gov.in/writereaddata/MenuContentImages/First_report_TARC635480254365343004.pdf))

*of the Income Tax Department, I propose to amend the provisions of the Income Tax Act to mandate the Central Board of Direct Taxes (CBDT) to adopt a Taxpayers' Charter'.*

The Finance Minister explained that important aspects of ease of living and ease of doing business is fairness and efficiency of tax administration. Therefore, the intent of bringing Taxpayer's Charter in the statutes was announced, where it was mentioned that the CBDT would adopt Taxpayer's Charter and issue necessary directions for implementation of the same.

With the above intention, 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 was 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.

Prime Minister Sri.Narendra Modi, on 13 August 2020, launched *Transparent Taxation - honouring the honest, platform encompassing faceless assessments, faceless appeals, and Taxpayer's Charter*. In his speech, he emphasised that the focus of this initiative is moving away from *power centric administration to people centric administration*. He assured that the taxpayers can expect fearlessness and fairness in tax administration at the same time, he emphasised on the point that it is the duty of the taxpayers to make prompt tax payments indicating the importance of two way co-operation from Tax Department as well as the taxpayers for an improved and better tax administration.

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

1. To provide fair, courteous, and reasonable treatment.
2. To treat taxpayer as honest: The Tax Department should treat the taxpayer as honest unless there is evidence to the contrary
3. To provide mechanism for appeal and review.
4. To provide complete and accurate information.: The Tax Department should provide the taxpayers with accurate information for fulfilling the compliance obligations under the Law.

5. To provide timely decisions: The Tax Department shall take decisions in every Income-tax proceeding within the time prescribed under law.
6. To collect the correct amount of tax.
7. To respect privacy of taxpayer: The Tax Department shall follow due process of law and be no more intrusive than necessary in any inquiry, examination, or enforcement action.
8. To maintain confidentiality: The Tax Department shall not disclose any information provided by taxpayer to the department unless authorized by law
9. To hold the Authorities accountable: The Tax Department shall hold its Authorities accountable for their actions.
10. To enable representative of choice
11. To provide mechanism to lodge complaint: The Tax Department shall provide mechanism for lodging a complaint and prompt disposal thereof.
12. To provide a fair and just system: The Tax Department shall provide a fair and impartial system and resolve the tax issues in a time-bound manner
13. To publish service standards and report periodically: The Tax Department shall publish standards for service delivery in a periodic manner.
14. To reduce cost of compliance: The Tax Department shall duly take into account the cost of compliance when administering tax legislation

Most of the rights provided in Taxpayer's Charter of India is a combination of rights present in the Taxpayer's Charter of different countries (right to be treated honest, right to certainty, right to pay no more than the amount of tax required etc), but needless to say, it is very well amended to make it suitable to the Indian scenario – like the right to not to be subject to retrospective taxation, right to request to a payment plan, etc. But what is missing in the Indian charter is right of tax certainty.

Rights such as right to be treated honest, right to minimise compliance cost, right to hold the Department accountable for their actions, right to privacy and confidentiality of the taxpayers provide solutions to

several problems faced by taxpayer's such as unnecessary litigations, high compliance cost, etc. resulting in harassment and reduction in voluntary compliance by the taxpayers. Right to complain about the service of the Tax Department holds the department accountable for their actions which helps in improving the service that is provided to the taxpayers.

The aim of tax laws should be to collect the taxes legally due from the taxpayers and not the collection of maximum taxes by the taxpayers. In this respect, the right which is provided in the charter "right to pay no more than the correct amount of tax" is a welcome move. It is a practice for the Tax Authorities to not allow deductions or exemptions when it was not claimed in the original return – this is a mistake apparent from record, resulting in unnecessary litigations; and this should now reduce. With this right effective now at least there should be reduction in the trend of - only collecting taxpayer information and not effectively utilizing the information to determining the correct amount of tax payable by them. Paying tax is a civic duty. However, collecting right amount of tax and protecting the interest of genuine taxpayers is a civic responsibility of the tax authorities.

Right to request a payment plan and right for licit arrangement of tax affairs of the taxpayers helps to reduce the compliance cost of the taxpayers and also reduces unnecessary harassment by the tax officers even in situations which are beyond the control of the taxpayers.

Emphasis on protection of right of privacy and confidentiality, helps to protect individuals and the corporates from damage of their goodwill due to speculative news doing rounds in the media and other means. Media plays an important role, especially with regard to confidentiality of tax systems around the world. With a major role played by tax authorities in collecting information and media in unearthing them, balance should be maintained between transparency and privacy

However, the Taxpayer's Charter of India like many other Country's Charter does not provide the right of confidentiality and privacy relating to the agreements between the countries for exchange of information of the taxpayers. Rather, it provides an exception to the right of confidentiality of taxpayer's information by mentioning in the Charter that the Department might have to share the taxpayer's information with other jurisdictions under various agreements. Transparency is one of the factors that is directly proportional to voluntary compliance.

Right to minimise compliance cost strives to achieve its objective through making the dealing with the Tax Authorities easier, by reducing the workload of taxpayers in complying with the provisions of the Act, etc. However, in practice this seems difficult as the reduction of compliance cost is directly proportional to the complexity of the tax laws. Hence, the Government should give importance to the

drafting of Tax Laws which are not complex in nature and easy to understand and comply by the taxpayers.

It is to be very well noted that Taxpayer's Charter is no substitute for having rights of the taxpayers enshrined in the statute. Rights such as rights of appeal, time limits, protection against disclosure of confidential information should always be given proper statutory form. However, there are certain more general and broader rights for which Taxpayer's Charter is a more suitable instrument (For example, the Revenue Authorities should collect the right amount of tax, not necessarily the maximum amount of tax which could be levied; taxpayers have the right to be represented at a meeting with the revenue authorities by a person of their choice.)<sup>15</sup>. Hence introduction of Taxpayer's Charter in India and inclusion of such rights is an appreciable effort of the Government in providing the taxpayers with necessary legal rights.

It is equally important that only when the protection of rights by the Tax Department and observance of obligations by the Taxpayers go hand-in-hand, the system will become successful. Though obligation of taxpayers are provided in different parts of the legislation, providing it in a separate document makes it easier to access and refer. Taxpayer's Charter of India expects the taxpayers to follow some obligations which are listed below:

1. Obligation to be honest, and compliant: Taxpayer is expected to honestly disclose full information and fulfil his compliance obligations
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.
3. Obligation to keep accurate records in accordance with the law.
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.
5. Obligation to respond in time: Taxpayer is expected to make submissions as per tax law in timely manner.
6. Obligation to pay in time: Taxpayer is expected to pay amount due as per law in a timely manner

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<sup>15</sup> Get Charter by Philip Baker - <https://www.taxation.co.uk/articles/2006-09-28-4403-get-charter>

It is the duty of both the Taxpayers and the Tax Authorities to adhere to the provisions of the Act and the Charter. This helps in promoting a healthy relationship between them which is the basic motive of introducing the Taxpayer's Charter.

Recently, there has been significant shift in digitization of compliance procedures - from online filing of tax returns/ forms, online payment of taxes, prefilling of returns, etc. Collection of data from various means, including other departments of tax administration team, third parties, etc. are now effectively integrated to provide seamless service to the taxpayers. Such improved signs of tax administration coupled with Taxpayer's Charter should have a holistic and integrated approach.

The Taxpayer's Charter in India is expected to improve the relationship between the Tax Authorities and the taxpayers, reduce unnecessary harassments through long drawn litigations even in case of honest taxpayers who are predominantly victims to the perception of the Tax Authorities that most taxpayers are dishonest. It will also help the Tax Authorities to shift the focus more on the better administration rather than on unnecessary litigations.

Further, with the tax regulations, taxpayer's rights and obligations in place, it is recommended that an effective *Compliance Program* is made available for taxpayer education. This program should be a single document that provides all details that a taxpayer should be aware of. In addition to this, simple and easy to understand tax laws and procedures will add to motivating the taxpayers in complying with them.

Also, post introduction of Taxpayer's Charter, the tax compliance pattern should be studied at regular intervals. A 360-degree feedback also should be taken on its effective implementation and if need be, required amendments should also be made to the tax regulations and Taxpayer's Charter based on the feedback.

Many countries across the world have introduced Taxpayer's charter, understanding the importance of protection of taxpayer's rights and interest. Introduction of Taxpayer's Charter in India in the statute itself is a welcome move for common good and is a positive step for reform in tax administration.

## VI. CONCLUSION

Taxpayer's Charter is nothing, but consolidated set of behaviors expected from Taxpayer and Tax Administration. Not many countries had taxpayer rights and obligations separately spelt out and given legislative sanction. Many countries have certain rights and obligations incorporated as part of their tax provisions, like certain countries already provide certain rights to the taxpayers such as right to appeal, right to be represented by someone else on taxpayer's behalf, right to pay only taxes due under the law, etc. Even countries without Taxpayer's Charter attach equal responsibility to the taxpayer's rights and obligations.

The success of tax system is always based on mutual co-operation between the taxpayer and the Tax Authorities. The Taxpayer's Charter will surely increase the accountability of the Tax Department towards taxpayers which will promote transparent proceedings and communication between the taxpayers and the Tax Authorities. It also helps in improving voluntary compliance that improves tax administration and increases collection of taxes – this being one of the important motives behind introducing Taxpayer's Charter.

### Attitude towards tax compliance

As per a survey report<sup>16</sup>, the factors that contributes to taxpayer's attitude towards tax compliance in Developed economies are:

1. Socio demographic factors (age, gender, education/tax knowledge, marital status, and occupational status),
2. Economic factors (income level, tax rate, and probability of detection),
3. Reciprocity (trust in government, fairness, and institution, /direct democracy),
4. Intrinsic motivation (national pride and religiosity)
5. Peer effects and social influences (peer influence)
6. Culture factors (culture).

Developing countries also have similar factors that contribute to taxpayers' attitude towards tax compliance, except for the factor 'intrinsic motivation', especially trust in the Government. It is seen from the survey that attitude of taxpayers towards tax compliance was positive in those countries where

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<sup>16</sup> Taxpayer's attitudes toward tax compliance in developed and developing countries: A critical view of the literature, by school of Business and Law in 2017  
<https://openrepository.aut.ac.nz/bitstream/handle/10292/10753/MaJ.pdf?sequence=4&amp>

the legal system was fair and effective. Hence, if the taxpayer's rights are protected from unnecessary exploitation by the authorities, the rate of voluntary compliance can be increased. Other factors include fairness of the tax system.

Whether developed or developing countries, attitude towards compliance of tax laws depends on whether the treatment towards taxpayers is fair and just. A fair mix of rights and obligations providing strict actions in case of violations from either side to some extent helps to curb tax avoidance or tax evasion and undue levy of tax. Otherwise, the Taxpayer's Charter will undoubtedly be referred to in correspondence between Taxpayers, and the Tax Authorities, and will become a matter of litigation.

*Should there be a model Taxpayer's Charter applicable to all?*

Having understood the fact that there could be certain expectations that differ between a Developed economy and an emerging economy when it comes to Taxpayer's Charter, the question really is – should a blanket set of rights and obligations be charted that are applicable globally? Or should there be separate set for Developed economies and a separate set for emerging economies? Or should each country draft its own Taxpayer's Charter based on a study conducted within?

There are no set of hard and fast rules to answer this. However, each Country will require a set of rights and obligations based on mutual experience between the Revenue Authorities and Taxpayers. Say for example, in a country that lacks 'intrinsic motivation', the focus should be more on protecting the interest of taxpayers without compromising tax Revenue.

Also, reforms prioritising improving tax administration experience including adherence to tax policies and compliances differ across countries – depending on the current stage of development, level of tax abuse, capacity of the tax administration, etc. It is difficult to draft a Taxpayer charter i.e. one size fits all approach. Developing and emerging economies usually face larger tax gaps and therefore, prefer that their regulations ensure increased revenue yields from effective compliance. For developing countries, the first focus should be to ensure collection of the basic revenue due without any tax leakage.

*Learn from veterans*

The intention behind introduction of Taxpayer's charter is to move from a highly adversarial relationship to a reliable and predictable environment between the Taxpayer and the Tax administration. Taxpayer's attitude to diligent compliances are correlated to the services provided to them. Also, the system needs to recognize that the Taxpayer is an important stake holder in this process.

A carefully implemented Taxpayer's Charter should ensure that the taxpayer rights are protected, and obligations are well communicated. At the same time, it should not hamper the revenue base.

Further, depending on the effectiveness in implementing Taxpayer's Charter, the taxpayers will be encouraged for voluntary compliance. This in turn will help the Tax Authorities in achieving effective tax revenue collection, cost effective administration of the tax laws, and increased mutual trust and cooperation between the Tax Authorities and the taxpayer, Australia is a typical example for achieving this standard.

Taxpayers rights have created an inspiring tax administration system in Australia. 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. This would be a key to drastically reduce litigation in India.

Modern tax environment will work efficiently only when there is transparency, clarity and simplicity in work that ensures that taxpayers are treated equally. This thought speaks in one voice for taxpayers worldwide.

A Taxpayer's Charter signifies the partnership between taxpayers and Tax Authorities. It helps to address unequal balance of power between both the parties, at the same time instill mutual trust. The ultimate goal that one should expect is whether the Taxpayer's Charter introduced serves the purpose. Further, a regular check on this followed by constant updating of regulation will be key source for effective implementation. Also, publishing periodical reports on the same will bring in greater level of transparency.

The Taxpayer's Charter of India provides set of rights to the Taxpayers, however one should wait and see how far such rights are respected by the Tax Authorities. Rights such as right to be treated honest, right to get information from the tax departments, right for licit arrangements of taxpayer's tax affairs that minimise the tax liability are provided, but protection of such rights depends majorly on the attitude and mindset of Tax Authorities.

Though the Citizen's Charter was in place since 2010 in India, the requirement to introduce the Taxpayer's Charter arose due to the failure in implementation of Citizen's Charter. The tax officials especially the field officers play a major role in successful implementation of the Taxpayer's Charter. The officials should be made accountable for their actions with implications charted out against the

corruption and officers who err in their duties – i.e. an effective redressal mechanism to address the taxpayer’s grievances. Discretionary powers of the Tax Authorities also should be legislated properly.

If properly implemented and administered, the Taxpayer’s Charter will help in attaining painless, seamless tax system which in turn will help in nurturing a trusted relationship between the Revenue departments and the community that they serve, a relationship with mutual trust and respect.