



CENTER FOR TAXPAYER RIGHTS

International Conference on Taxpayer Rights Access to Justice: Judicial Review & Alternative Dispute Resolution

MAY 25, 2023

BARRIERS TO ACCESS TO OR DEPRIVATION OF JUDICIAL REVIEW

Barriers to Access to or Deprivation of Judicial review

Panelists:

- Akinmade Ajibola, Chairman, Tax Appeal Tribunal, South West, Nigeria
- Mary Gillium, Director, Tennessee Taxpayer Project, Legal Aid Society of Middle Tennessee and the Cumberland, United States
- Christophe Waerzeggers, International Monetary Fund, United States

Moderator:

- Peter J. Panuthos, Special Trial Judge, US Tax Court, United States

Why are some taxpayers reluctant to seek assistance of volunteer lawyers when offered to them?

- Taxpayers self-diagnose
- Many taxpayers believe all courts are courts of equity.
- Taxpayers assume they do not qualify for free assistance.
- Taxpayers are afraid that there are fees for volunteer lawyers.
- Taxpayers have communication barriers
- Taxpayers have geographical barriers
- Taxpayers have inflexible work schedules.
- Taxpayers lack access to technology.
- Taxpayers who have received public assistance or had a bad experience suffer from apathy.

Does delay by the Court in hearing a case and the time it takes to render an opinion adversely affect taxpayers?

- Low-income taxpayers may be transient and the courts lose contact with the taxpayers.
- Taxpayers have court cases involving prospective debt or desperately needed refunds.
- Some low-income taxpayers live paycheck to paycheck and day to day so they give up and assume they lost their case when a proceeding or opinion takes a long period of time.

What are some of the remedies to mitigate delay?

- Providing a timeline of a case, including advising petitioners on when the case might be calendared for trial and when a decision might be rendered.
- Offering an information day for *pro se* petitioners.
- Penalties against tax authority and/or reparation for delayed judgments.
- Requiring parties to provide the court with information verifying that they have met to discuss and possibly settle the case within three months after the pleadings have closed.

Does the cost of instituting and maintaining a Court case adversely affect a taxpayer's rights?

- Timing of a waiver and potential for costs
- What procedure works best to help taxpayers feel secure that they will not incur further costs if they choose to proceed to court to dispute a tax matter?

Does the formality of proceedings, technical terms, legal jargon turn taxpayers away?

- It may intimidate taxpayers.
- How to explain technical matters to a layperson?

Do important issues escape proper judicial review because of lack of representation or government concessions?

- What's the role of court in approving settlements or concessions?
- What roles does the Internal Revenue Code's Taxpayer Bill of Rights (TBOR) play?
- What discretion if any does a judge have, in monitoring a settlement?
- What human rights issues are there, if any?

Further Resources

Questions?
