

Whistleblower Protection for Employees Who Report Federal Tax Law Violations

Employees are protected from retaliation for reporting underpayment of taxes, potential violations of internal revenue laws, or potential violations of any provision of Federal law relating to tax fraud to their employers or to the federal government, or engaging in other protected activities.

On July 1, 2019, the *Taxpayer First Act* (TFA) was enacted establishing retaliation protections for employees who report underpayment of taxes or other potential Federal tax law violations or engage in other protected activities.

Protected Activity

No employer, or any officer, employee, contractor, subcontractor, or agent of an employer, may discharge or in any other manner retaliate against an employee for engaging in activity protected under TFA.

You are protected from retaliation under TFA if you:

- Provided information or assisted in an investigation regarding underpayment of tax or any conduct which you reasonably believe violates internal revenue laws or any provision of Federal law relating to tax fraud. The information or assistance must be provided to one of the entities listed in the statute, which include, among others, the Internal Revenue Service (IRS), Department of Justice, Congress, and supervisors or other employer personnel with authority to discover, investigate, or address misconduct.
- Testified, participated in, or otherwise assisted in any administrative or judicial action taken by the IRS relating to an alleged underpayment of tax, any violation of the internal revenue laws, or a violation of any provision of Federal law relating to tax fraud.

What Is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by TFA. Retaliation can include several types of actions, such as:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours
- Making threats

Deadline for Filing Complaints

Complaints must be filed within 180 days after the alleged retaliatory action (that is, when the employee is notified of the action).

How to File a TFA Complaint

An employee, or his or her representative, can file a TFA complaint with OSHA by visiting or calling his or her local OSHA office, sending a written complaint to the closest OSHA office, or filing a complaint online. No particular form is required and complaints may be submitted in any language.

Written complaints may be filed by fax, electronic communication, hand delivery during business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier.

The date of the postmark, fax, electronic communication, hand delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office is considered the date filed.

To file a complaint electronically, please visit www.osha.gov/whistleblower/WBComplaint.html.

To contact an OSHA area office, please call 1-800-321-OSHA (6742) to be connected to the closest area office. Or visit our website at www.osha.gov/contactus/bystate and click on your state to find your local OSHA office address and contact information.

When OSHA receives a complaint, the agency will first review it to determine whether certain basic requirements are met, such as whether the complaint was filed on time. If so, the complaint will then be investigated according to the procedures required by 29 CFR Part 1979, until OSHA promulgates procedures specific to the TFA.

Results of the Investigation

If the evidence supports an employee's complaint of retaliation and a settlement cannot be reached, OSHA will issue an order requiring the employer to, as appropriate, put the employee back to work, pay 200% of lost wages, restore benefits, and provide other possible relief. The exact requirements will depend on the facts of the case. If the evidence does not support the employee's complaint, OSHA will dismiss the complaint.

After OSHA issues a decision, the employer and/or the employee may request a full hearing before an administrative law judge of the Department of Labor. The administrative law judge's decision may be appealed to the Department's Administrative Review Board (ARB). The ARB's decision is subject to review by

the Secretary of Labor, and a final decision may be appealed to a court of appeals. The employee may also file a complaint in federal court if the Department has not issued a final decision within 180 days of the filing of the complaint. 26 U.S.C. § 7623(d)(2)(A)(ii).

To Get Further Information

For a copy of the TFA whistleblower provision, 26 U.S.C. § 7623(d), and other information, go to www.whistleblowers.gov.

OSHA's Whistleblower Protection Programs enforce the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes that OSHA enforces, view our "Whistleblowers Statutes Summary Chart" at www.whistleblowers.gov/whistleblower_acts-desk_reference.pdf.

For more information on the Office of Administrative Law Judges procedures and case law research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

To obtain more information about tax laws, please visit the IRS website at www.irs.gov.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education, and assistance. For more information, visit www.osha.gov.

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory-impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: 1-877-889-5627.



U.S. Department of Labor



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