

To the office of U.S. Representative W. Gregory Steube

Re: HR 9498 (119th Congress), Taxpayer Advocate Participation Act • Latest action (2026-09-16):

Received in the Senate and Read twice and referred to the Committee on Finance.

VFA SI Solution #451 • published 2026-10-17 • <https://www.valuesforamerica.com/solutions/451>

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Taxpayer Voice in Court With Judicial Control and Sunset

The measure, as described from the official record: Help protect broad taxpayer rights in federal court by letting the National Taxpayer Advocate share an independent taxpayer perspective in cases involving federal tax law.

THE PROPOSAL

Congress can create this narrow tool, but courts must keep control of their cases. Article I, Section 8, Clause 1 grants Congress power over taxes and spending, and Clause 18 permits laws needed to carry that power out, which is why Congress may fund and authorize the Advocate to speak on broad taxpayer-rights issues. Article III, Section 1 vests judicial power in the courts, which is why Congress may not order courts to accept a brief. The strongest objection is that a government insider filing in tax cases would tilt the case; the answer is judicial discretion plus equal rules and a fair chance to respond, required by Fifth Amendment Due Process.

The VFA proposal would create a narrow way for the National Taxpayer Advocate to speak for broad taxpayer interests in federal tax cases. The official summary states the original bill would authorize amicus appearances and require courts to permit them. The VFA change would authorize the Advocate to request leave to file, while preserving the authority of each court to accept or reject the brief under Article III, Section 1 and its normal rules.

The Advocate could file only on an issue that may broadly affect taxpayer rights, not to support one taxpayer over another in a routine dispute. Each brief would state that it presents the independent view of the Advocate, identify the funding source authorized under Article I, Section 8, Clauses 1 and 18, and certify that no private party directed the filing. The Advocate could not intervene as a party, seek relief, appeal, or disclose confidential taxpayer information.

To satisfy Fifth Amendment Due Process, each filing would follow the same page limits, deadlines, and disclosure rules that apply to other friends of the court. Parties would have a fair chance to respond. An annual public report would list each case, the issue addressed, staff time, and cost, so Congress can judge whether the tool helps taxpayers without burdening courts.

The program would run for five years under review by the Treasury Inspector General for Tax Administration. Spending would be capped at \$2 million per year from existing Taxpayer Advocate Service funds. If Congress finds clear value for taxpayers and no harm to fair process, it could extend the authority. If not, the authority would end.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Effective Date	Applies to cases filed on or after 180 days after enactment.
Enforcement Mechanism	The Advocate may request leave to file an amicus brief under court rules; courts retain discretion to accept or reject; the Treasury Inspector General for Tax Administration reviews compliance and reports violations to Congress with corrective plans.
Funding Amount	Cap of \$2 million per fiscal year from existing Taxpayer Advocate Service funds, no new appropriation
Funding Source	Existing appropriations for the Internal Revenue Service Taxpayer Advocate Service, with no new taxes or fees
Oversight Body	Treasury Inspector General for Tax Administration, with annual public reports to the House Ways and Means Committee and Senate Finance Committee
Sunset Years	5 years

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 1
- Article I, Section 8, Clause 18
- Article III, Section 1
- Fifth Amendment Due Process

Concerns with the measure as written:

- Mandatory language requiring federal courts to permit appearances raises separation of powers concerns under Article III, Section 1, because Congress should authorize requests to file rather than order courts to accept them.
 - Due process and fairness require that the Advocate disclose its government role and file only on broad taxpayer-rights issues, so no party gains a hidden advantage.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

VFA assesses this draft would give Democrats and progressives an independent taxpayer voice in federal court, with public reporting on broad taxpayer-rights issues. VFA assesses it would give Republicans and conservatives a limited reform that preserves court control, bars party intervention, caps spending with no new funds, and ends after five years unless Congress extends it.

Strongest objection, and the answer: The strongest objection is that a government insider filing in tax cases would tilt the case; the answer is judicial discretion plus equal rules and a fair chance to respond, required by Fifth Amendment Due Process.

CHECK BEFORE RELYING ON THIS

Basis: The official Congress.gov summary of H.R. 9498 in the 119th Congress states the bill would authorize the National Taxpayer Advocate to appear as amicus curiae in federal tax cases on issues broadly affecting taxpayer rights, and notes the latest action as received in the Senate and referred to Finance.

The full bill text, current law details, eligibility rules, court procedures, fiscal effects, and conflicts with existing statutes are not stated in the official summary and should be verified in the full bill text at [Congress.gov](https://www.congress.gov) before action.

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