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Dave McClure • Feb. 25, 2016

The **IRS** strategy to require independent, non-credentialed tax preparers took two steps forward in February. Both steps are designed to establish required education and licensing for the estimated 111,000 independent tax preparers in the US.

The first step was contained in the FY2017 Budget proposed by President Obama. The proposal is for a \$4.1 trillion spending plan, complete with a massive \$2.8 trillion tax hike. Among the sweeping tax changes proposed are higher tax rates on top earners and a 24-cents-per-gallon tax increase on each gallon of gasoline.

One of the other proposals would remedy the issue that the IRS encountered when it attempted to regulate tax preparers beginning in 2011 – the lack of statutory authority to do so. The US District Court for Washington, DC struck down the proposed IRS regulatory scheme in the case of *Loving*, No. 12-385 (D.D.C. 1/18/13)). A part of the new proposal, however, would give the Secretary of the Treasury explicit authority to regulate all paid tax return providers, beginning on the date of enactment.

That proposal would be accompanied by a \$515 million increase in funding for enforcement and compliance programs. That amount would be increased thereafter through 2026. The funding increase would be via a program integrity cap adjustment, which adjusts discretionary spending limits on core programs.

The second step came in the form of a Bloomberg report (see “Do Tax Preparers Know What They are Doing?” at <http://www.bloomberg.com/news/articles/2016->

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The studies are not large enough to be statistically valid for the entire profession. Even IRS Commissioner John Koskinen notes that, "Most preparers provide high-quality service but we run across cases each year where unscrupulous preparers steal from their clients and misfile their taxes."

However, a [Consumer Federation of America survey](#) released on January 19 found that 80 percent of 1,011 respondents supported the idea of requiring tax preparers to pass a test. Among the results:

- **80% of the public supports requiring paid tax preparers to pass a test** administered by the government that would ensure that paid preparers have the knowledge and training to complete taxpayer returns correctly.
- **56% believe paid preparers should have special training** but don't need a degree and 31% of the public believes that paid tax preparers should have a college degree in accounting.
- **83% of the public supports licensing requirements for paid preparers** by a state agency that would also accept and resolve complaints, and enforce consumer protections.

There are still three things working in favor of those who wish to avoid regulation:

- **It is doubtful that Obama's budget proposal will ever become law in its present form.** In the wake of the Loving decision, there were several pieces of legislation introduced to give the Treasury Department regulatory authority under the law. None of these, though, gained enough support to be passed by Congress. Furthermore, the Republican-controlled Congress this year is unlikely to approve yet another year with an Obama budget with more than \$4.1 trillion in spending that will increase the federal deficit by another \$649 trillion.
- **There's no evidence that regulation will reduce errors or tax crime.** According to Dan Alban, the attorney from the Institute for Justice who represents the

independent preparers, says that “Just about every tax return has an error on it.

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Where this all ends in 2016 remains to be seen. But it is clear that the drum beat of regulation is sounding, and that the fight will continue in the years ahead until regulation is the law.

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