

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

CONTRIBUTORS

IRS Two Steps Closer to Regulating Tax Preparers

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.

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/2016-02-10/do-tax-preparers-know-what-they-re-doing>) documenting failure and incompetence by independent tax preparers.

The Bloomberg report from February 2016, is consistent with other such research. In 2015, the National Consumer Law Center (see <http://www.nclc.org/images/pdf/pr-reports/report-prepared-in-error.pdf>) tested 29 tax prep offices and found only two forms completed correctly. Of 19 tax preparers selected at random by the Government Accountability Office in 2014 found only two that calculated the correct refund amount.

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. “That’s because the tax code is so complex.” The IRS has further muddied the waters by refusing to release data on what percentage of tax errors and fraud are committed by CPAs, Enrolled Agents, free tax preparation services, and large national chains versus small independent preparers.
- **CPAs may not want to give up a powerful market differentiator.** As it stands today, CPAs and other credentialed preparers enjoy a powerful market advantage due to their credentials and their requirement for CPE. This advantage would be lost if all paid preparers have equivalent credentials.

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.

Contributors • Product & Service Guide • Tax • Internal Revenue Service (IRS) • News • Internal Revenue Service • IRS • professional tax preparers • Registered Tax Return Preparer • Regulations • Tax Preparation • tax preparation fees • Tax Preparation Software • Tax Preparer • tax preparer licensing • tax preparer regulations • Tax Preparers • tax return preparer fraud • unlicensed tax preparers

CPAPA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors.

© 2022 Firmworks, LLC. All rights reserved