



National Association
of Tax Professionals

NATP Comments:

Effective Regulation of Tax Return Preparers

Presented to:

Senate Finance Committee
April 8, 2014

Background

The National Association of Tax Professionals (NATP) is honored to submit this commentary on the regulation of tax return preparers to the Senate Finance Committee. NATP appreciates the opportunity to register its observations and concerns regarding the regulation of tax return preparers and the status of the tax preparation industry as a whole.

NATP is a nonprofit professional association that is committed to the integrity of the tax administration system and the application of tax laws and regulations by providing education, research and information to tax professionals. For over 34 years, we have existed to serve professionals who work in all areas of tax practice. We provide our members with over 200 tax education offerings in more than 100 locations throughout the United States. In 2013, NATP issued 155,250 CPEs through live nationwide workshops, webinars, and self-study programs. In addition, our 39 Chapters and National headquarters serve the public through regular news releases, client brochures and newsletters, and a designated taxpayer website. Our Chapters provide significant member involvement in local and state communities. Our headquarters with 56 employees is located in Appleton, Wisconsin.

NATP lends tremendous influence to 12 million taxpayers' decisions about compliance through its educated membership of over 23,000 tax professionals. NATP's membership is a diverse group comprised of attorneys, CPAs, EAs, CFPs, BBAs, MBAs, PhDs, as well as Associate degrees, accountants, part-time professionals and those who have entered the profession as a second career. NATP is an "industry-specific" association as opposed to a "credential-specific" association. We therefore have no bias for any one group of tax professionals over another. Approximately half of our members are "credentialed," which is a term used by the IRS to primarily designate attorneys, CPAs and EAs. Accordingly, roughly half of our members are directly affected by the proposed regulation of tax professionals. Approximately 82% of these non-credentialed professionals have post-high school degrees.

We believe we are uniquely qualified to speak to the status of tax return preparers because of the wide cross-section of tax professionals in the industry that comprises our membership. NATP has, from the beginning, been of the belief that nothing but good can come from raising the bar and enhancing professional knowledge and competence in complying with our complex tax code.

Preparer Regulation

In 2004, NATP sent an informal survey to its members asking for input regarding the national licensing or registration of tax preparers. Based on the feedback, the majority of those who responded would support some form of licensing or registration. Of those that showed support for licensing or registration, many agreed that it was time for practitioners to register and demonstrate reasonable competency, although an overly burdensome program would not serve the best interests of the industry. The basic opinions remain today despite the Loving case outcome.

NATP has always supported "raising the bar" through careful and thoughtful regulation of all paid tax return preparers. The effectiveness of tax administration, in part, relies on the consistent quality of work being done on tax returns and staying up-to-date on tax law through continuing education. Both are necessary competencies to do accurate tax work. We would

hope the IRS will continue to pursue pathways toward a higher standard for all tax professionals.

At the onset of the Return Preparer Review initiative, NATP submitted comments effectively suggesting that the IRS take a slow, careful approach when determining their desired outcomes. Our society and the business environment have become so complex that, despite repeated efforts on behalf of Congress and the regulatory agencies, the process of computing and reporting accurate tax liabilities on the part of citizens has also become complex. Licensing and/or registration is a step toward ensuring that taxpayers receive professional and credible services from currently unlicensed paid tax preparers. Any proposal to regulate paid preparers should ensure that they sign the returns they prepare, stand behind their work, continue their education to stay current on tax laws and regulations, and maintain the highest ethical conduct while servicing taxpayers.

Despite any regulatory regime, there is a strong likelihood that unscrupulous and unethical tax return preparers who are not already licensed or regulated will simply “go underground” when/if any regulation is put into place. During the 2014 filing season, statistics revealed that there was approximately a 6% increase in the number of self-prepared returns. While it’s not possible to know with certainty what percentage of these returns were actually prepared by non-signing “ghost” preparers, we can assume that many of them most likely were. In its effort to make tax return filing easy and economical for the American public, Congress and the IRS have unintentionally fostered an environment where such dishonest and unprincipled people can readily have free and easy access to software and electronic filing capability. At a minimum, those issues must be tackled from a compliance and enforcement standpoint.

There should be some way to easily identify qualified tax return preparers and inform the public of who is authorized to prepare their tax returns versus who is authorized to practice before the IRS. Taxpayers must have a clear understanding of how tax professionals differ in the services they’re able to provide. The American public deserves that. Terminology used to identify such preparers must be clear to the public, clear to the tax administration system and clear to the tax preparation community. Any government marketing effort to educate the public regarding newly licensed preparers must distinguish them so as not to confuse the public with existing credentials already in use such as Certified Public Accountant, Enrolled Agent, and attorney.

NATP is concerned that the tax administration system will be harmed by a loss of capable preparers that provide for the current compliance enjoyed by the system. We believe that many of the problems above can be alleviated with reasonable, economic tweaks in the process going forward. We recommend the following:

1. Provide the IRS with the regulatory authority and the budgetary resources to effectively administer a program regulating tax preparers.
2. Remove Section 10.3(f) of Circular 230 as it relates to the registered tax return preparer designation. No preparer should be put in a position of having to refer their clients to competitors for advice in the course of planning, emergencies or any other instance in which taxpayers need help with compliance. In the event the RTRP program is reinstated in some form, at a minimum, the wording of §10.3(f)(3) should be changed to reflect that all paid tax return preparers may give advice in their practice.
3. The IRS should exercise more caution in implementing any program until better information can be obtained through matching PTINs and EFINs with problem returns.

4. Build a program model that can keep small business preparers in place thereby assuring jobs and livelihoods that can provide for healthy competition and therefore better serve the taxpayer and the tax administration system.

Conclusion

We would hope that, as regulation of paid preparers is once again debated, direction would be given the Treasury to keep the licensing process efficient, fair and economical. We would also hope that any legislation would provide the Commissioner of the IRS with the resources needed to enforce already existing laws enacted to stamp out unethical and unscrupulous behavior within our tax system. We point out that this behavior is also demonstrated by some taxpayers – those prone to “shop” the tax professional community to see who will provide them with the best tax result or highest refund.

Thank you for this opportunity to express our thoughts regarding what we consider to be important issues regarding the regulation of paid tax return preparers. We are available to share our unbiased knowledge on issues of tax administration from the perspective all tax professionals.