



## Position on the Regulation of Tax Return Preparers

As submitted by the National Association of Tax Professionals  
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The National Association of Tax Professionals (NATP) has always supported “raising the bar” through fair, effective and not overly-burdensome regulation of all tax return preparers. The effectiveness of tax administration, in part, relies on the consistent quality of work generated by tax return preparers who stay up-to-date on tax law through continuing education.

The intent of this document is to urge Congress to continue to pursue pathways toward a higher standard for all tax professionals by providing the IRS with the regulatory authority and the budgetary resources to effectively administer a program regulating tax preparers.

### **Background**

The IRS started the Registered Tax Return Preparer (RTRP) program in 2010 with two main requirements:

- Tax preparers to pass a basic competency test
- Tax preparers to complete 15 hours of continuing education (CE) each year, prior to renewing their Preparer Tax ID Number (PTIN)

The RTRP program ended in January 2013 after a decision on *Loving v. IRS* determined that the IRS did not have the authority to mandate these requirements. The IRS discontinued the RTRP program and related testing and CPE requirements. In its place, the IRS developed a voluntary program, the Annual Filing Season Program (AFSP), designed to encourage tax return preparers to participate in continuing education courses. The RTRP program had an estimated 350,000 tax preparers who would have been required to demonstrate competence in individual tax law by passing the RTRP test by the end of 2013. Currently, only 61,413 preparers participate in the AFSP voluntary program. While the IRS relies on tax preparers to adhere to due diligence requirements, without mandatory regulations in place, the level of confidence in any expectation of compliance is low.

## **Protecting the Taxpayers and Providing Fairness for Ethical Preparers**

The vast majority of taxpayers (around ninety percent) now rely upon either tax return preparers or tax preparation software for assistance with their tax returns.<sup>2</sup> According to the 2017 IRS Data Book, professional preparers were responsible for filing 78.6M taxpayer returns. Based on this statistic, it's clear that there is a real need to ensure competency among tax preparers. Whether this is accomplished in the way of testing, continuing education or both remains to be seen. At the very minimum, we believe that some amount of annual continuing education should be required of preparers authorized to file returns on behalf of taxpayers.

Accurate tax return preparation is a fundamental need for effective tax administration. The lack of rules preventing unqualified individuals from becoming tax return preparers decreases the quality of tax return filings and contributes to widening the \$458 billion "tax gap."<sup>1</sup> Well-educated tax return preparers are in a unique position to accurately file tax returns on behalf of taxpayers. In doing so, taxpayers are assured they are paying the correct amount of tax, reducing, and in many cases eliminating, the possibility of post-filing season notices from the IRS. Congress should use its authority to protect the taxpayer and mandate that if a tax preparer is compensated for his or her services, those services meet a minimum standard of competency, knowledge, and ethics.

Overall, the tax practitioner community by and large is honest, ethical, competent and conscientious. Taxpayers should be able to rely on licensed or registered preparers as competent guides in tax matters and the preparation and filing of tax returns. Licensing and/or registering tax return preparers will not guarantee 100% ethical and scrupulous behavior, but there should be a process in place that both protects the taxpayer while also rewarding those preparers who adhere to the law as it applies to professional tax preparation.

## **Time for Requirements on the Industry**

It's no secret that recent budget cuts have forced the IRS to do more with less. The hardest hit has been taxpayer services. In years past, taxpayers were afforded the ability to go to an IRS Taxpayer Assistance Center and obtain the help needed to prepare their returns or seek guidance. IRS assistors were readily available at IRS call centers. This is no longer the case<sup>2</sup> and nearly 90 percent of the taxpayers are forced to rely on assistance from tax professionals or tax software to prepare their return.

Tax return preparation is not a simple matter. The rules are complex and require a robust knowledge of the law. It is imperative that the government takes steps to ensure that tax preparers are held to a standard that corresponds to the importance of their role in preparing accurate tax returns, thus ensuring the taxpayers they serve are paying the correct amount of tax legally allowed by law and are being served with expertise and fairness.

There are procedures currently in place where government can fine and, at times, prosecute tax return preparers who prepare inaccurate, reckless, and/or fraudulent returns and even go as far as preventing them from preparing returns ever again, yet there is nothing in place that would require all paid preparers to demonstrate competency or participate in continuing education. With that said, to reinstitute a regulatory regime would not require the Congress, the Treasury or IRS to start all over. Simply changing the procedures under the Annual Federal Tax Return (AFTR) program from voluntary to mandatory would be an easy lift. A process of training and competency testing is already in place as is the requirement to fulfill a set number of continuing education credits on a yearly basis. The only thing missing is the mandate.

We urge Congress to provide the IRS with the budget and the authority to significantly improve tax administration by raising the standard for all who perform the important work of assisting taxpayers with accurately paying their taxes. Our system of government relies upon taxes being collected correctly and our fellow citizens should feel confidence in the person who helps them do that.

Thank you for this opportunity to share our position on this incredibly important subject. We look forward to continuing this conversation and are available to discuss at your convenience.

### **About the National Association of Tax Professionals**

NATP is the largest association dedicated to equipping tax professionals with the resources, connections and education they need to provide the highest level of service to their clients. NATP is comprised of over 23,000 leading tax professionals who serve more than 8 million taxpayers and believe in a superior standard of ethics and exemplify professional excellence. Members rely on NATP to deliver professional connections, content expertise and advocacy that provides them with the support they need to best serve their clients. The organization welcomes all tax professionals in their quest to continually meet the needs of the public, no matter where they are in their careers.

The NATP headquarters is located in Appleton, WI. To learn more, visit [www.natptax.com](http://www.natptax.com).

<sup>1</sup>Soled, Jay A. and Thomas, Kathleen DeLaney, Regulating Tax Return Preparation (October 18, 2016). 58 Boston College Law Review 151 (2017); UNC Legal Studies Research Paper No. 2854186. Available at SSRN: <https://ssrn.com/abstract=2854186>

<sup>2</sup>Protecting Taxpayers from Incompetent and Unethical Return Preparers: Hearing Before the S. Comm. on Finance, 113th Cong. 1 (2014) (written testimony of John A. Koskinen, Comm'r, IRS)

<sup>3</sup>Treasury Inspector Gen. for Tax Admin., Most Tax Returns Prepared By A Limited Sample Of Uncontrolled Preparers Contained Significant Errors (2008) "Pursuing abusive preparers is part of the IRS' strategy to reduce the tax gap, which researchers estimate to be \$290 billion based on 2001 data."