

Annual Filing Season Program

January 2016 marks a milestone

By NATP Staff

The IRS's voluntary Annual Filing Season Program is directed at preparers who are not licensed as attorneys, CPAs or enrolled agents. Are you one of them?

Because tax preparers file hundreds of tax returns each year, honest mistakes are bound to happen. If a return you prepared receives an audit or CP-2000 notice, your client will rely on you to fix the problem. Don't lose your right to do so, or it could mean losing your clients.

Beginning January 1, 2016, any PTIN holders who are not attorneys, CPAs or enrolled agents may lose their representation rights if they do not volunteer to participate in the Annual Filing Season Program (AFSP).

An AFSP Record of Completion gives tax preparers the right to *discuss* client tax information before revenue agents, customer service representatives and similar IRS employees, rather than only being able to *request* information.

For those unenrolled preparers who wish to become enrolled agents, AFSP is a great stepping stone. To become AFSP certified, you must complete:

- 6-credit AFTR course and exam.
- 10 credits of federal tax law education.
- 2 credits of Ethics.

Starting on January 1, 2016, this is what representation will look like:

- Attorneys, CPAs and enrolled agents will continue to be the only tax professionals with unlimited representation rights, meaning they can represent their clients on audits, payment/collection issues, appeals and more.
- AFSP participants will have limited representation rights, meaning they can represent clients whose returns they prepared and signed, but only before revenue agents, customer service representatives and similar IRS employees, including the Taxpayer Advocate Service.
- PTIN holders without an AFSP Record of Completion or other professional credential will only be permitted to prepare tax returns. PTIN holders can still check the third-party designee box, but it doesn't allow them to represent the taxpayer.

The key difference between AFSP participants and PTIN holders without an AFSP Record of Completion is that the former can discuss tax information, while the latter can only request tax information. Checking the third-party designee box will not be enough.

A taxpayer can authorize the IRS to discuss a return with a

friend, family member or any other person if the "Yes" box in the third-party designee area of the tax return was checked and the required information was provided. Per IRM 4.11.5.1.4.2.5, as a third-party designee and PTIN holder you can:

- Give the IRS information missing from the taxpayer's return.
- Call the IRS for information about the processing of the taxpayer's return, or the status of a refund or payment(s).
- Receive copies of notices or transcripts related to your return, upon request.
- Respond to certain IRS notices about math errors, offsets and return preparation.

The designee cannot receive refund checks, bind the taxpayer to any agreements or represent the taxpayer before the IRS.

The authorization cannot be revoked, but will automatically terminate no later than the due date (without regard to extensions) for filing the subsequent tax year's return.

Following are two scenarios that illustrate the problems an unenrolled preparer without an AFSP Record of Completion could face:

Scenario 1. A PTIN holder (no credential, no AFSP) prepares a tax

return and is marked as a designee. The taxpayer forgot to provide a 1099 and the IRS sends a CP-2000. As a third-party designee, the tax preparer can send the missing information from the taxpayer's return.

Scenario 2. The facts are the same as the ones outlined in Scenario 1, but the IRS says that the 1099 income is subject to self-employment tax. The tax preparer believes differently, but

cannot argue or discuss tax law with the IRS without an AFSP.

For a quick review of what tax preparers can and cannot do, please refer to the chart below. ■

	Non-AFSP*	AFSP	EA	CPA
Provide missing information	X	X	X	X
Call about the processing	X	X	X	X
Receive notices/copies	X	X	X	X
Respond about math errors and preparation	X	X	X	X
Argue tax law		X	X	X
On behalf of the taxpayer, disagree with the IRS on a tax return he/she prepared		X	X	X
Disagree with the IRS for the taxpayer on a tax return ANYONE prepared			X	X
Talk with the IRS in an audit on a tax return he or she prepared		X	X	X
Talk with the IRS in an audit on a tax return that ANYONE prepared			X	X
Talk with the IRS Collections Officer			X	X
Handle appeals			X	X

*Non-AFSP is a PTIN holder who was marked as a third-party designee.