

Wyden Amendment to the Second Modification to a Bill to Prevent Identity Theft and Tax Refund Fraud

Cosponsors: Cardin, Carper, Warner

Short Title: Treasury authority to develop minimum standards for paid return preparers

Description of Amendment: The amendment provides the Department of the Treasury authority to develop minimum standards for paid tax return preparers. It amends Title 31 of the U.S. Code to encompass all aspects of Federal tax practice, without regard to whether it includes representation before the Treasury. It specifies that preparation of tax returns for compensation within the meaning of the Internal Revenue Code is subject to Treasury's authority. This authority is meant to be commensurate in scope with the existing authority under Title 31 standards applicable to and the conduct of persons who represent clients before the Treasury department. At the direction of the Treasury Secretary, the provision also authorizes the IRS to revoke identifying numbers issued to tax return preparers for failure to comply with regulations under either the Code or Title 31.

The Senate Committee on Finance expects the Department of the Treasury to expeditiously (i) approve third-party examination and continuing education standards for providers for purposes of allowing individuals to obtain registered tax return preparer status; (2) establish a program for evaluating and approving State-based tax credential programs for purposes of providing individuals with registered tax return preparer status; and (iii) end the voluntary Filing Season Program.

The amendment also requires that any regulations implemented pursuant to this grant of authority include a restriction on the use of any terms used in the regulations to describe persons subject to the regulations, such as the term "registered tax return preparer," in any paid advertising involving print, television or radio, in which an individual represents himself or herself to be a tax return preparer. Such restriction will include a requirement that the paid advertisement include for display or broadcast the following statement: "The IRS does not endorse any particular individual tax return preparer. For more information on tax return preparers go to *IRS.gov*."

The amendment also limits the Secretary's authority to regulate a person who assists in preparation of Federal tax returns or statements but does not sign the returns. Under the provision, such persons would not be required to comply with the PTIN requirements if all such work is performed under the supervision and direction of a person who signs the return and is a certified public accountant, an attorney or an enrolled agent. The preparer penalty is clarified to ensure that the supervisor who signs a return may be held responsible for any unreasonable position taken on a return as a result of reliance on the work of an employee.

The amendment also requires that the GAO study current sharing of information on return preparer minimum standards between the Treasury Department and State authorities, as authorized under section 6103(k), and the impact that increased information sharing between Federal and State authorities would have on efforts to enforce minimum standards on return preparers, and report its findings with appropriate recommendations within 18 months of the date of enactment.

Finally, the amendment would move the Office of Professional Responsibility and the Return Preparer Office out of the IRS and under the umbrella of the Treasury Department.

Revenue Impact: The original proposal was estimated to raise \$135 million over ten years.