

114TH CONGRESS
1ST SESSION

H. R. 1778

To amend the Internal Revenue Code of 1986 and the Consumer Financial Protection Act of 2010 to regulate tax return preparers and refund anticipation payment arrangements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2015

Ms. BONAMICI introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 and the Consumer Financial Protection Act of 2010 to regulate tax return preparers and refund anticipation payment arrangements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Refund Protection
5 Act of 2015”.

1 **SEC. 2. REGULATION OF TAX RETURN PREPARERS.**

2 (a) IN GENERAL.—Subchapter A of chapter 80 of the
3 Internal Revenue Code of 1986 is amended by adding at
4 the end the following new section:

5 **“SEC. 7812. REGULATION OF TAX RETURN PREPARERS.**

6 “(a) IN GENERAL.—The Secretary shall—

7 “(1) establish a program to license or certify
8 tax return preparers subject to this section,

9 “(2) regulate such tax return preparers, and

10 “(3) before licensing or certifying a person as
11 a tax return preparer subject to this section, require
12 that the person demonstrate—

13 “(A) good character,

14 “(B) good reputation,

15 “(C) necessary qualifications to enable the
16 person to provide to persons valuable service as
17 a tax return preparer, and

18 “(D) competency to perform the functions
19 of a tax return preparer.

20 “(b) AUTHORITY TO IMPOSE A FEE.—The Secretary
21 shall require tax return preparers subject to this section
22 to pay a reasonable fee for licensing or certification under
23 this section.

24 “(c) DISCLOSURE REQUIREMENTS.—The Secretary
25 shall, by rule, require tax return preparers subject to this

1 section to provide a disclosure statement to taxpayers that
2 shall contain statements—

3 “(1) identifying the amount of fees such tax re-
4 turn preparer charges for preparing a Federal in-
5 come tax return, filing a Federal income tax return,
6 or executing a refund anticipation payment arrange-
7 ment, and

8 “(2) identifying the average amount of time in
9 which an individual who files a Federal income tax
10 return electronically can expect to receive a refund
11 by mail, according to information provided by the
12 Internal Revenue Service.

13 “(d) DISCIPLINARY PROCEDURES.—After notice and
14 opportunity for a hearing, the Secretary may take any en-
15 forcement action against a tax return preparer subject to
16 this section who—

17 “(1) is incompetent,

18 “(2) is disreputable,

19 “(3) violates regulations prescribed under this
20 section, or

21 “(4) with intent to defraud, willfully and know-
22 ingly misleads or threatens a consumer.

23 “(e) TAX RETURN PREPARER SUBJECT TO SEC-
24 TION.—A tax return preparer is subject to this section if

1 such preparer is not subject to section 330 of title 31,
2 United States Code.

3 “(f) DEFINITIONS.—For purposes of this section—

4 “(1) TAX RETURN PREPARER.—See section
5 7701(a)(36) for the definition of a tax return pre-
6 parer.

7 “(2) REFUND ANTICIPATION PAYMENT AR-
8 RANGEMENT.—The term ‘refund anticipation pay-
9 ment arrangement’ has the meaning given such term
10 by section 1029B(d)(2) of the Consumer Financial
11 Protection Act of 2010.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for subchapter A of chapter 80 of the Internal Revenue
14 Code of 1986 is amended by inserting after the item re-
15 lated to section 7811 the following new item:

“Sec. 7812. Regulation of tax return preparers.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply with respect to returns filed after
18 December 31, 2015.

19 **SEC. 3. REGULATION OF REFUND ANTICIPATION PAYMENT**
20 **INSTRUMENTS.**

21 (a) IN GENERAL.—Subtitle B of the Consumer Fi-
22 nancial Protection Act of 2010 (12 U.S.C. 5481 et seq.)
23 is amended by adding at the end the following new section:

1 **“SEC. 1029B. REGULATION OF REFUND ANTICIPATION PAY-**
2 **MENT ARRANGEMENTS.**

3 “(a) IN GENERAL.—The Bureau shall regulate re-
4 fund anticipation payment arrangements.

5 “(b) DISCLOSURE REQUIREMENTS.—The Bureau
6 shall, by rule, require tax return preparers subject to this
7 section to provide a disclosure statement to a consumer
8 that shall contain statements—

9 “(1) identifying the amount of fees for exe-
10 cuting a refund anticipation payment arrangement;

11 “(2) describing, in the case of a refund antici-
12 pation payment arrangement involving a depository
13 account not controlled by the consumer, the dif-
14 ference in days between the average amount of time
15 by which a consumer receives the tax refund (in
16 whole or in part) from a refund anticipation pay-
17 ment arrangement and the average amount of time
18 by which a consumer who files a Federal income tax
19 return electronically receives the tax refund depos-
20 ited directly to that consumer’s deposit account by
21 the taxing authority;

22 “(3) that a refund anticipation payment ar-
23 rangement is not necessary to receive a tax refund;
24 and

25 “(4) that, if a consumer does not receive a tax
26 refund or the amount of the tax refund is less than

1 the amount anticipated under the refund anticipa-
2 tion payment arrangement, the consumer may be re-
3 sponsible for paying any fees and interest associated
4 with a refund anticipation payment arrangement.

5 “(c) REQUIREMENTS UNDER TILA.—The Bureau
6 shall issue regulations that, to the extent practicable, re-
7 quire tax return preparers that enter into a refund antici-
8 pation payment arrangement to comply with section 128
9 of the Truth in Lending Act (15 U.S.C. 1638) to the same
10 extent as a creditor making a consumer credit transaction
11 other than under an open end credit plan.

12 “(d) DEFINITIONS.—For purposes of this section, the
13 following definitions shall apply:

14 “(1) TAX RETURN PREPARER.—The term ‘tax
15 return preparer subject to this section’ means a tax
16 return preparer (as defined in section 7701(a)(36)
17 of the Internal Revenue Code of 1986) who is not
18 subject to regulation under section 330 of title 31,
19 United States Code.

20 “(2) REFUND ANTICIPATION PAYMENT AR-
21 RANGEMENT.—The term ‘refund anticipation pay-
22 ment arrangement’ means an arrangement under
23 which, in exchange for Federal income tax prepara-
24 tion services, a consumer agrees to pay a fee or in-
25 terest upon receipt of the consumer’s tax refund to

1 a tax return preparer, lender, or other affiliated
2 lender by—

3 “(A) requesting the Federal Government
4 to deposit such tax refund, in whole or in part,
5 directly into a depository account designated by
6 either the consumer or the tax return preparer,
7 lender, or other affiliated lender; or

8 “(B) directly paying the fee or interest to
9 the tax return preparer, lender, or other affili-
10 ated lender.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
12 of the Dodd-Frank Wall Street Reform and Consumer
13 Protection Act (12 U.S.C. 5301 et seq.) is amended by
14 inserting after the item related to section 1029A the fol-
15 lowing new item:

“Sec. 1029B. Regulation of refund anticipation payment arrangement.”.

16 (c) EXCLUSION FOR CERTAIN TAX PREPARERS.—

17 (1) IN GENERAL.—Section 1027(d)(1) of such
18 Act is amended by striking subparagraph (B).

19 (2) CONFORMING AMENDMENTS.—Section
20 1027(d) of such Act is further amended—

21 (A) in paragraph (1)—

22 (i) in the heading, by striking “AND
23 TAX PREPARERS”;

24 (ii) by striking subparagraph (B);

1 (iii) by striking “authority over” and
2 all that follows through “any person” and
3 inserting “authority over any person”;

4 (iv) by redesignating clauses (i) and
5 (ii) as subparagraphs (A) and (B), respec-
6 tively, and by moving such subparagraphs
7 2 ems to the left;

8 (v) by redesignating subclauses (I)
9 and (II) as clauses (i) and (ii), respec-
10 tively, and by moving such clauses 2 ems
11 to the left;

12 (vi) in subparagraph (A) (as redesign-
13 ated), by inserting “(except as related to
14 tax return preparers pursuant to section
15 1029B)” after “tax”; and

16 (vii) in clause (ii) (as redesignated),
17 by striking “; or” and inserting a period;
18 and

19 (B) in paragraph (2)—

20 (i) in subparagraph (A)—

21 (I) by striking “paragraph (1)(A)
22 or (1)(B)” and inserting “such para-
23 graph”; and

1 (II) by striking “paragraph
2 (1)(A)” each place it appears and in-
3 serting “paragraph (1)”;

4 (ii) in subparagraph (C)—

5 (I) by striking “For purposes of
6 subparagraphs (A) and (B), a person
7 described in paragraph (1)(A)” and
8 inserting “A person described in para-
9 graph (1)”;

10 (II) by striking “clause (i) or (ii)
11 of paragraph (1)(A)” and inserting
12 “subparagraph (A) or (B) of para-
13 graph (1)”;

14 (iii) in subparagraph (D), by striking
15 “described in paragraph (1)(A) or (1)(B)”.

16 **SEC. 4. SPLIT REFUNDS MAY INCLUDE TAX RETURN PRE-**
17 **PARER.**

18 (a) IN GENERAL.—Section 6402 of the Internal Rev-
19 enue Code of 1986 is amended by adding at the end the
20 following:

21 “(m) SPLIT REFUNDS.—An income tax refund re-
22 quested on a return of Federal income tax prepared by
23 an income tax preparer may be split between the preparer
24 and the taxpayer in accordance with the split requested
25 by the taxpayer on the return, except that the amount des-

1 ignated for the preparer may not exceed the amount pre-
2 scribed by the Secretary by regulation or other guidance.
3 A split of an individual income tax return under this sub-
4 section shall not be treated as disreputable conduct merely
5 because the taxpayer requested such split.”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
7 subsection (a) shall apply with respect to returns for tax-
8 able years ending after the date of the enactment of this
9 Act.

10 **SEC. 5. REGULATIONS.**

11 Regulations issued under section 7812 of the Internal
12 Revenue Code of 1986, as added by section 2, and regula-
13 tions issued under section 1029B of the Consumer Finan-
14 cial Protection Act of 2010, as added by section 3, should
15 be coordinated to the extent practicable.

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