

116TH CONGRESS
1ST SESSION

S. 1192

To set minimum standards for tax return preparers.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mr. WYDEN (for himself, Mr. CARDIN, Mr. BENNET, Mr. CARPER, Mr. BROWN, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To set minimum standards for tax return preparers.

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 “Taxpayer Protection
5 and Preparer Proficiency Act of 2019”.

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

7 (a) IN GENERAL.—Subsection (a) of section 330 of
8 title 31, United States Code, is amended—

9 (1) by striking paragraph (1) and inserting the
10 following:

11 “(1) regulate—

1 “(A) the practice of representatives of per-
2 sons before the Department of the Treasury;
3 and

4 “(B) the practice of tax return preparers;
5 and”; and

6 (2) in paragraph (2)—

7 (A) by inserting “or a tax return preparer
8 to prepare tax returns” after “practice”;

9 (B) by inserting “or tax return preparer”
10 before “demonstrate”; and

11 (C) by inserting “or in preparing their tax
12 returns, claims for refund, or documents in con-
13 nection with tax returns or claims for refund”
14 after “cases” in subparagraph (D).

15 (b) AUTHORITY TO SANCTION REGULATED TAX RE-
16 TURN PREPARERS.—Subsection (c) of section 330 of title
17 31, United States Code, is amended—

18 (1) by striking “before the Department”;

19 (2) by inserting “or tax return preparer” after
20 “representative” each place it appears; and

21 (3) in paragraph (4), by striking “misleads or
22 threatens” and all that follows and inserting “mis-
23 leads or threatens—

24 “(A) any person being represented or any
25 prospective person being represented; or

1 “(B) any person or prospective person
2 whose tax return, claim for refund, or document
3 in connection with a tax return or claim for re-
4 fund, is being or may be prepared.”.

5 (c) MINIMUM COMPETENCY STANDARDS FOR TAX
6 RETURN PREPARERS.—Section 330 of title 31, United
7 States Code, is amended by adding at the end the fol-
8 lowing new subsection:

9 “(f) TAX RETURN PREPARERS.—

10 “(1) IN GENERAL.—Any tax return preparer
11 shall demonstrate minimum competency standards
12 under this subsection by—

13 “(A) obtaining an identifying number for
14 securing proper identification of such preparer
15 as described in section 6109(a)(4) of the Inter-
16 nal Revenue Code of 1986;

17 “(B) satisfying any examination and an-
18 nual continuing education requirements as pre-
19 scribed by the Secretary; and

20 “(C) completing a background check ad-
21 ministered by the Secretary.

22 “(2) EXEMPTION.—The Secretary shall exempt
23 tax return preparers who have been subject to com-
24 parable examination, continuing education require-
25 ments, and background checks administered by the

1 Secretary or any comparable State licensing pro-
 2 gram. Such exemption shall extend directly to indi-
 3 viduals who are supervised by such preparers and
 4 are not required to secure an identification number
 5 under section 6109(a)(4).”.

6 (d) TAX RETURN PREPARER DEFINED.—Section
 7 330 of title 31, United States Code, as amended by sub-
 8 section (c), is amended by adding at the end the following
 9 new subsection:

10 “(g) TAX RETURN PREPARER.—For purposes of this
 11 section—

12 “(1) IN GENERAL.—The term ‘tax return pre-
 13 parer’ has the meaning given such term under sec-
 14 tion 7701(a)(36) of the Internal Revenue Code of
 15 1986.

16 “(2) TAX RETURN.—The term ‘tax return’ has
 17 the meaning given to the term ‘return’ under section
 18 6696(e)(1) of the Internal Revenue Code of 1986.

19 “(3) CLAIM FOR REFUND.—The term ‘claim for
 20 refund’ has the meaning given such term under sec-
 21 tion 6696(e)(2) of such Code.”.

22 (e) AMENDMENTS WITH RESPECT TO IDENTIFYING
 23 NUMBER.—

1 (1) IN GENERAL.—Section 6109(a) is amended
2 by striking paragraph (4) and inserting the fol-
3 lowing:

4 “(4) FURNISHING IDENTIFYING NUMBER OF
5 TAX RETURN PREPARER.—

6 “(A) IN GENERAL.—Any return or claim
7 for refund prepared by a tax return preparer
8 shall bear such identifying number for securing
9 proper identification of such preparer, his em-
10 ployer, or both, as may be prescribed. For pur-
11 poses of this paragraph, the terms ‘return’ and
12 ‘claim for refund’ have the respective meanings
13 given to such terms by section 6696(e).

14 “(B) EXCEPTION.—Subparagraph (A)
15 shall not apply to any tax return preparer who
16 prepares a return or claim for refund under the
17 supervision and direction of a tax return pre-
18 parer who signs the return or claim for refund
19 and is a certified public accountant, an attorney
20 or enrolled agent.”.

21 (2) CLARIFICATION OF RESCISSION AUTHOR-
22 ITY.—Section 6109 is amended by inserting after
23 subsection (d) the following new subsection:

24 “(e) AUTHORITY TO RESCIND IDENTIFYING NUM-
25 BER OF TAX RETURN PREPARER.—

1 “(1) IN GENERAL.—The Secretary may rescind
2 an identifying number issued under subsection
3 (a)(4) if—

4 “(A) after notice and opportunity for a
5 hearing, the preparer is shown to be incom-
6 petent or disreputable (as such terms are used
7 in subsection (c) of section 330 of title 31,
8 United States Code); and

9 “(B) rescinding the identifying number
10 would promote compliance with the require-
11 ments of this title and effective tax administra-
12 tion.

13 “(2) RECORDS.—If an identifying number is re-
14 scinded under paragraph (1), the Secretary shall
15 place in the file in the Office of the Director of Pro-
16 fessional Responsibility the opinion of the Secretary
17 with respect to the determination, including—

18 “(A) a statement of the facts and cir-
19 cumstances relating to the determination; and

20 “(B) the reasons for the rescission.”.

21 (f) GAO STUDY AND REPORT ON THE EXCHANGE
22 OF INFORMATION BETWEEN THE IRS AND STATE TAX-
23 ATION AUTHORITIES.—

24 (1) IN GENERAL.—Not later than 18 months
25 after the date of the enactment of this Act, the

1 Comptroller General shall conduct a study and sub-
2 mit to Congress a report on the sharing of informa-
3 tion between the Secretary of the Treasury and
4 State authorities, as authorized under section
5 6103(d) of the Internal Revenue Code of 1986, re-
6 garding identification numbers issued to paid tax re-
7 turn preparers and return preparer minimum stand-
8 ards.

9 (2) INCREASED INFORMATION SHARING.—The
10 study and report described in paragraph (1) shall in-
11 clude an analysis of the impact that increased infor-
12 mation sharing between Federal and State authori-
13 ties would have on efforts to enforce minimum
14 standards on paid tax return preparers.

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