



"Service to the Tax Profession"

**WRITTEN TESTIMONY OF GRETA BARNCORD, EA
ON BEHALF OF
THE NATIONAL SOCIETY OF TAX PROFESSIONALS
BEFORE THE
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT
THE UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
NEW IRS PAID TAX RETURN PREPARER PROGRAM
JULY 28, 2011**

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify on the new IRS Paid Tax Return Preparer Program. My name is Greta Barncord and I am the President of the Board of the National Society of Tax Professionals (NSTP). Our organization is comprised of tax practitioners with varying types of professional credentials and different levels of practice. Thus, we are uniquely qualified to offer our membership's views on the IRS's plan for regulating tax return preparers.

We have many concerns about the program that we have expressed to the IRS throughout the implementation process. As many elements of the plan are in place, we will not revisit those myriad concerns in this testimony. Rather, we would like to focus our remarks on two issues that remain problematic: the fair treatment of experienced, professional preparers; and the continuing problem of nonsigning preparers, who will be able to avoid the reach of the IRS's current preparer regulation plan.

Competency Exams

We remain concerned that competency testing will be a barrier to entry for unenrolled preparers, many of whom now work with underserved populations in rural areas and with lower-income taxpayers. Many unenrolled practitioners are highly competent and serve their clients well. If they are forbidden to practice going forward, the existing enrolled community could not absorb the overwhelming number of new clients. Tax preparation fees would go up. Many taxpayers could be underserved, and the IRS workload and staffing expense would also increase dramatically due to the overflow. For these reasons, we continue to recommend the "grandfathering in" of paid return preparers with 3-5 years experience and a history of signing accurate returns.

Competency testing is set to begin in October of this year. We believe the IRS should carefully track the pass/fail rates of experienced paid preparers and, if there are high initial failure rates, the IRS should again consider some sort of grandfather program for experienced tax preparers. We suggest the model used by some State Bar Associations for "waiving in" out-of-state professionals. That is, allow a tax preparer to waive in to the program without testing if they can show they have been practicing for 3 to 5 years and have been regularly signing tax returns during that time. A similar rule already is in place for revenue agents who have worked for the IRS for 5 years. Circular 230 allows them to obtain the Enrolled Agent credential without testing. In short, there should be some method of becoming grandfathered in based on a preparer's demonstrated professional experience.

Nonsigning Preparers

While we understand the IRS's frustration with misconduct by some tax preparers, we believe the new PTIN registration requirement and competency testing program will not address many of the abuses the IRS is seeking to prevent—primarily, unsigned, erroneous and fraudulent returns. The focus of the IRS's regulation plan so far has been on legitimate, signing paid tax preparers. The IRS must concurrently implement a comprehensive, aggressive plan to stop return preparation by nonsigning preparers who do not register for a PTIN, do not sign the returns they prepare, and who do not comply with the new testing, education, or ethical requirements.

The IRS has indicated that it is working to identify returns prepared by a nonsigning preparer but filed by the taxpayer. This strategy clearly is not enough. At the same time, the IRS has been making compliance visits to above-board, signing preparers around the country in a program that began early this year. The NSTP recommends that the IRS shift its resources, particularly for these preparer visits, to investigating and visiting tax preparation offices that are run by nonsigning, underground tax preparers.

Taxpayers who submit ostensibly self-prepared returns also should be required to certify by some type of jurat on both print and electronic returns that they did not pay a nonsigning preparer to complete the return. The statement should be included in both hand-written and paper returns and also should be incorporated into tax preparation software so every self-prepared return includes the affirmation. This requirement should be enforced by strict monetary penalties on taxpayers who fail to report nonsigning paid preparers and by criminal penalties for the noncompliant preparers, when identified.

In conclusion, return preparer regulation will not be successful unless the most serious noncompliance problem, that of fly-by-night, underground return preparers, is addressed with the same commitment, level of resources, and comprehensive strategy which is now in place for legitimate paid tax return preparers.

We commend the Committee for holding this hearing to explore the issues concerning the new IRS Return Preparer Regulation Program. Thank you for consideration of our views. I would be pleased to address any questions you may have. I can be reached by phone at (407)365-6204 or by e-mail at Greta@nstp.org.

Respectfully submitted,
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About the NSTP

The National Society of Tax Professionals (NSTP) is a nonprofit organization founded in 1985 and is made up of approximately 5000 members who are certified public accountants, attorneys, enrolled agents, financial planners, and other tax professionals. About one-half of our members are unenrolled preparers. NSTP supports the tax professional community with educational programs designed to enhance professional ability and knowledge. Every NSTP Member is required to abide by the NSTP Code of Professional Conduct which is designed to promote high standards of competence and ethics within the profession and to promote mutual respect, cooperation and communication between the Internal Revenue Service and tax professionals. For more information, visit www.nstp.org.