

**AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS**

**TESTIMONY BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON OVERSIGHT**

**HEARING ON THE IMPLEMENTATION OF  
THE IRS PAID TAX RETURN PREPARER PROGRAM**

**JULY 28, 2011**

Good morning Chairman Boustany, Ranking Member Lewis and Members of the Subcommittee. My name is Patricia Thompson. I am a CPA and I am the Chair of the American Institute of Certified Public Accountants' (AICPA) Tax Executive Committee. I am also the tax partner at Piccerelli, Gilstein & Company, LLP, a CPA firm in Providence, Rhode Island, and have been with the firm for over 32 years. I would like to thank this Subcommittee for the opportunity to appear at today's hearing on the implementation of the IRS paid tax return preparer program.

It has been a year-and-a-half since the Internal Revenue Service (IRS) released its report on the paid tax return preparer community, *Internal Revenue Service Return Preparer Review*. The AICPA has been a steadfast supporter of the IRS' overall goals of enhancing compliance and elevating ethical conduct. Ensuring that tax preparers are competent and ethical is critical to maintaining taxpayer confidence in our tax system. Indeed, these goals are consistent with AICPA's own Code of Conduct and enforceable tax ethical standards, the Statements on Standards for Tax Services.

We believe the IRS should be commended for its efforts in the implementation of the return preparer program. Specifically, the IRS has devoted an unprecedented amount of time to listening to stakeholder concerns and suggestions regarding the tax return preparer regulatory program, and made numerous changes and adjustments.

Since the release of the report and as the IRS has moved to implement its recommendations, the AICPA has expressed its concern regarding specific aspects of the program. One concern we

had was the initial proposal to subject non-signing staff of CPA firms who are supervised by CPAs to the entire regulatory regime applicable to registered tax return preparers, including testing and specific continuing education (CE) requirements. The IRS subsequently published Notice 2011-6 which adopted a limited exemption from testing and CE requirements for those non-signing employees of CPA firms who are properly supervised by licensed CPAs and other licensed professionals who have historically practiced before the IRS under Circular 230. We believe these changes adopted by IRS confirm the Service's recognition of the inherent regulatory regime within which CPAs and other Circular 230 legacy practitioners already practice, as well as the fact that that CPA firms must stand, as a matter of licensure, behind the work done by the members and employees of the firm. We believe these changes appropriately focus the return preparer regulatory program on the "unenrolled" preparer community that was implicated in the Government Accountability Office (GAO) and Treasury Inspector General for Tax Administration (TIGTA) compliance studies cited in the IRS report. Those studies had looked at the types and quality of services provided by various paid tax return preparers.

The AICPA supports the tax return preparer program as it is structured today. Specifically, we support:

- Registering paid tax return preparers and the issuance of unique preparer tax identification numbers (PTINs). Registration will allow the accumulation of important data on specific preparers as well as classes of preparers in a way that will allow the IRS to tailor compliance and education programs in the most efficient manner.
- Expanding the ethical umbrella of Circular 230 over all paid income tax preparers. We have consistently made this recommendation in our official comments, and we are pleased to observe the IRS adoption of this expansion. Commercial preparers had previously not been subjected to the ethical guidance of Circular 230 nor the circular's sanctions for improper conduct. Over time, the expansion of Circular 230 will pay significant dividends in achieving the program's goal of elevating ethical conduct.

- Creating a continuing education construct geared towards the “unenrolled” preparer community. We appreciate the Service’s adoption in the recently issued package of final regulations under Circular 230 of modifications to last fall’s proposed regulations regarding the continuing education aspects of Circular 230.
- Including a basic Form 1040 oriented examination as an aspect to become a “registered tax return preparer.” Moving away from a multi-tiered testing structure in order to focus on the basics is the correct remedial approach for the “unenrolled” preparer community that was, again, implicated in the GAO and TIGTA compliance studies. We also believe that having one examination will be less confusing to taxpayers in understanding the relative qualifications of the different classes of tax return preparers.

While we support the requirement that all paid preparers must obtain a unique PTIN, this requirement has led to some confusion in practice. The PTIN is generally required by all preparers who prepare “all or substantially all” of a tax return. This is perfectly clear in the instance of a preparer who has overall supervisory responsibility for the preparation of the return such that he or she is required to sign the return under the relevant Code and regulations. In the case of non-signing preparers, including staff of CPA firms who support a CPA’s practice and interns who work at CPA firms during the busy season or during semester breaks, the requirement is less clear. Because the test for who needs a PTIN is a facts and circumstances test, some amount of confusion may be unavoidable. The result has been that many individuals have interpreted the requirement very broadly in deciding whether to obtain a PTIN. The IRS has issued FAQs to help individuals better understand the requirement.

With respect to the expansion of Circular 230 to “unenrolled” preparers, this has been a central aspect of AICPA’s recommendations throughout all of our public commentary on the IRS return preparer regulatory program. We believe that an enforceable ethics code is integral to the functioning of the program. CPAs operate under numerous ethics regimes, state accounting board, AICPA standards, Circular 230 to name a few, and we believe that a strong set of ethical standards enhances our profession.

Regarding efforts to impose continuing education, we support a CE requirement for registered tax return preparers. While certain aspects of the proposed CE requirement have not yet been finalized, we are encouraged that the IRS issued Notice 2011-61 requesting comments on the process to become a qualified continuing education provider. The AICPA plans to respond to this IRS request for comments.

Regarding the competency testing aspect of the program, we recently submitted our comments to IRS in response to IRS Notice 2011-48 requesting comments on the contents of the proposed examination regarding Form 1040. We were pleased to provide insights that our organization has developed in light of our experience with developing and administering the Uniform CPA examination.

With regard to taxpayer confusion regarding the relative qualifications of the different classes of tax return preparers, the IRS recognized this problem through the issuance of Notice 2011-45 on May 31, 2011 which constrains “registered tax return preparers” from misleading advertising and solicitation. Notice 2011-45 stated that Circular 230 will be amended to “require a registered tax return preparer using any paid advertising involving print, television or radio, in which the individual represents himself or herself to be a registered tax return preparer to 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.’” We are confident that the IRS website will contain the additional information that taxpayers will need to make appropriate choices concerning selection of a tax adviser.

Finally, we believe that any public database developed by IRS that is designed to serve as a “look up” function where taxpayers may search for their preparer should be structured to mitigate any taxpayer confusion regarding the relative qualifications of the different classes of tax return preparers by making available the tax return preparer’s other designations (CPA, attorney and Enrolled Agent). The database should also reference the tag line described above as well as the additional information contained on the IRS website.

We are pleased with the work the IRS has undertaken with regard to its tax preparer program and want to emphasize our overall support for this program. We share the Service's interest in improving tax administration and protecting the taxpaying public. We look forward to working with the IRS as they continue to implement the program.

We hope the Subcommittee will find this testimony useful in your continued work regarding the implementation of the IRS paid tax return preparer program. We welcome the opportunity to discuss this information with you informally or in any future public hearing.

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