

Registration and PTIN Required

The IRS this afternoon released its long-awaited [Tax Preparer Regulation Proposal](#). The proposal does not provide a time line for implementation but notes that the proposal's recommendations can be implemented through regulations. Consequently, we can expect to see more substance about what will be required in the near future.

The proposal specifies the following with respect to registration:

- * IRS will require all individuals who are required to sign a federal tax return as a paid tax return preparer to register and obtain a preparer tax identification number. The IRS may charge a reasonable, nonrefundable fee to register as a tax return preparer. The preparer tax identification number will be the exclusive number used to identify any tax return preparer submitting returns to the IRS.

- * The IRS will study the impact and necessity of expanding this registration requirement to nonsigning tax return preparers in the future.

- * The IRS will make tax return preparer registration effective for three-year periods and require tax return preparers to renew their registration every three years.

NSA has learned that the IRS intends the registration requirement to be in place next year at this time, and preparers will need a PTIN to sign returns reporting income for 2010. The IRS proposal is unclear as to whether a preparer who already has a PTIN will be required to re-register for this purpose.

Minimum Competency Testing to Be Required for All Preparers Except Those Covered by Circular 230

The IRS is proposing to establish minimum competency testing for tax return preparers who are not attorneys, certified public accountants, or enrolled agents. The IRS is not proposing a competency testing program for attorneys, certified public accountants, or enrolled agents currently, but the IRS will consider expanding testing to those individuals if data is collected in the future that identifies a need for this testing.

Initially, two examinations will be offered for tax return preparers who are not attorneys, certified public accountants, or enrolled agents. The first test will cover wage and non-business income Form 1040 series returns. The second test will cover wage and small business income Form 1040 series returns.

It is important to note that the IRS currently has no idea how it will test preparers, who will do the testing, and what database will be used. Consequently, there is no indication as to when this proposal can be implemented.

The IRS will not “grandfather” any tax return preparer from the testing requirement based on return preparation experience. This means that preparers who have taken and passed the examination offered in Oregon, or who pass the examination expected to be offered in the future in Maryland, will also have to take the proposed federal examination.

The IRS intends that the examinations offered in Oregon, Maryland and by third parties such as the Accreditation Council for Accountancy and Taxation will continue to have a useful role in the tax preparation industry by identifying preparers who are experienced and have taken difficult examinations demonstrating expertise in more complex areas of the tax law. In fact, IRS officials have reviewed the ACAT examinations and found them too difficult for the minimum competency testing that the IRS has in mind.

The IRS will place all signing and nonsigning tax return preparers under Treasury Department Circular 230. Thus, all such preparers will be subject to the same ethics rules currently applicable to CPAs, attorneys and enrolled agents. The authority granted to those individuals who do not have professional licenses and who are not enrolled agents, enrolled actuaries or enrolled retirement plan agents will be limited to preparing tax returns and representing their clients as currently permitted during an examination of any return prepared by the tax return preparer.

The IRS will also develop a consumer awareness campaign and develop a searchable database of registered tax return preparers