



*It Will Take Years to Implement
the Return Preparer Program
and to Realize Its Impact*

September 30, 2010

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This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

2(f) = Risk Circumvention of Agency Regulation or Statute

7 = Predecisional Material

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 30, 2010

**MEMORANDUM FOR DEPUTY COMMISSIONER FOR SERVICES AND
ENFORCEMENT**

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – It Will Take Years to Implement the
Return Preparer Program and to Realize Its Impact
(Audit # 201040037)

This report presents the results of our review to monitor and evaluate the Internal Revenue Service's implementation of the Return Preparer Strategy. The scope of this audit was limited to the planning, design, and implementation of the Return Preparer Registration System and planning for the implementation of future phases of the Return Preparer Strategy. This audit was added to our Fiscal Year 2010 Annual Audit Plan and addresses the major management challenge of Tax Compliance Initiatives.

Management's complete response to the draft report is included as Appendix VI.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Michael E. McKenney, Assistant Inspector General for Audit (Returns Processing and Account Services), at (202) 622-5916.



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Abbreviations

<i>e-file(d)</i>	Electronically file(d)
ERO	Electronic Return Originator
IRS	Internal Revenue Service
ITIN	Individual Taxpayer Identification Number
PTIN	Preparer Tax Identification Number
RPI	Return Preparer Implementation
TIGTA	Treasury Inspector General for Tax Administration
U.S.	United States



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Background

Every year, more than one-half of all taxpayers pay someone else to prepare their Federal income tax returns. In Calendar Year 2009, the Internal Revenue Service (IRS) processed approximately 83.1 million individual Federal income tax returns prepared by paid preparers. Yet, these preparers did not have any national standards that they were required to satisfy before selling tax preparation services to the public. Anyone, regardless of training, experience, skill, or knowledge, was allowed to prepare Federal income tax returns for others for a fee.

In June 2009, the IRS launched its Return Preparer Review as a result of recent reviews conducted by the Treasury Inspector General for Tax Administration (TIGTA), the Government Accountability Office, and other IRS stakeholders that identified the impact of tax preparers on tax compliance and the need for regulation. In December 2009, at the conclusion of the 6-month review, the IRS announced reforms of return preparer oversight. The reforms include requirements for registration, competency testing, continuing professional education, ethical standards, and enforcement.

Return Preparer Population

The TIGTA estimates that there are approximately 1 million paid tax return preparers. Paid preparers can be self-employed or may work for accounting firms, large tax preparation services, or law firms, and include the following:

- Licensed professionals, such as attorneys and Certified Public Accountants. These licensed professionals are regulated by the State licensing authorities.
- Enrolled Agents. These professionals pass an IRS examination or present evidence of qualifying experience as a former IRS employee and have been issued an enrollment card. Enrolled Agents are the only taxpayer representatives who receive their right to practice from the Federal Government.
- Unenrolled or unlicensed preparers. These individuals range from those who might receive extensive training to those with little or no training. Currently, only three States—California, Maryland, and Oregon—have requirements for unenrolled paid preparers. In these States, unenrolled paid preparers must register with State agencies and meet continuing professional education requirements.

There are approximately 1 million paid tax return preparers, including attorneys, Certified Public Accountants, Enrolled Agents, and unenrolled preparers.



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Attorneys, Certified Public Accountants, and Enrolled Agents are referred to as “practitioners.” This means they are authorized to represent taxpayers at meetings with the IRS, prepare and file documents for taxpayers, and communicate directly with the IRS on behalf of taxpayers to resolve tax liabilities and other tax obligations.

Preparers can also be Electronic Return Originators (ERO). EROs originate the electronic submission of income tax returns to the IRS (electronically file or *e-file*). An ERO electronically submits income tax returns that are either prepared by the ERO firm or collected from taxpayers. Applicants to the Electronic Filing Program must pass certain IRS checks, including criminal background checks. Participants are also monitored.

IRS Return Preparer Review

Based on the results of the Return Preparer Review, in January 2010 the IRS announced it would soon provide more oversight for tax return preparers and recommended a number of steps that it plans to implement for future filing seasons. The IRS believes that taxpayers, tax administration, the tax professional industry, and related service providers will be better served through the implementation of a number of changes in how tax industry participants are overseen. The recommended changes, which can be achieved through the issuance of regulations, were not in effect for the 2010 Filing Season.

These recommendations include increased IRS oversight of paid preparers. The IRS plans to:

- Require all individuals who sign a Federal tax return as a paid tax return preparer to register and obtain a Preparer Tax Identification Number (PTIN).
- Establish competency testing for all paid tax return preparers required to register with the IRS who are not attorneys, Certified Public Accountants, or Enrolled Agents.
- Perform suitability checks on those paid tax return preparers required to complete competency testing.
- Require 15 hours of annual continuing professional education, including 3 hours of Federal tax law updates, 2 hours of tax preparer ethics, and 10 hours of Federal tax law topics for tax return preparers who are required to register. The continuing professional education requirements will not apply to attorneys, Certified Public Accountants, Enrolled Agents, or others enrolled to practice before the IRS.
- Place all signing and nonsigning tax return preparers under *Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, Enrolled Retirement Plan Agents, and Appraisers before the Internal Revenue Service* (Treasury Department Circular 230).

The Return Preparer Review proposed registration, competency testing, continuing professional education, compliance checks, ethical standards, and continuous evaluation and enforcement.



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In addition, the IRS plans to implement a comprehensive enforcement strategy that includes applying significant examination and collection resources to tax return preparer compliance. It will also establish a task force that will seek the input of the tax preparation software industry, State government representatives, and other relevant stakeholders to address identified risks associated with the dependence of tax administration on consumer and commercial tax preparation software, and discuss the possibility of establishing industry standards.

This review was performed at the Wage and Investment Division Headquarters in Atlanta, Georgia, and the Return Preparer Implementation Project Office in Washington, D.C., during the period January through June 2010. This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

A Project Office and Action Plan With Critical Dates Have Been Established to Help Ensure Effective Implementation of the Return Preparer Program

Immediately after announcing the Return Preparer Review, the IRS selected an Executive Lead and Project Manager, and committing significant resources, established a Return Preparer Implementation (RPI) Project Office. The Project Office will support the IRS in implementing key Return Preparer Program functions for Filing Season 2011 and lay the foundation for long-term Program institutionalization.

The Project Office established five teams with specific roles and responsibilities.

1. Governance/Service-wide Impacts.
2. Communications.
3. Testing/Continuing Professional Education.
4. Business and Information Technology Relationship Management.
5. Compliance and Enforcement.

Six Project Office teams include 6 full-time team leaders and 60 staff who have committed up to 50 percent of their time and 15 staff who have committed 10 to 20 percent of their time to the Project.

It also established a sixth team to implement and coordinate the *e-file* mandate.¹ Four of the six teams include a subject matter expert.

The Project Office provides weekly status reports. These reports provide, for each of the six teams, a list of accomplishments, “next steps,” and “key issues/questions.” Most importantly, the status reports include the key decisions that have been made and any upcoming meetings. The Project Office also provides IRS executives with weekly updates, which include a list of key risks and next steps.

The Project Office maintains an Action Issues Log to log in significant issues and questions, and it includes the status and owner for each issue/question, next steps, and the resolution. The Project Office also has established an action plan to project milestones and record actions needed

¹ The *e-file* mandate is required by The Worker, Homeownership, and Business Assistance Act of 2009, Pub. L. No. 111-92, 123 Stat. 2984 (2009). It requires that preparers who file more than 10 tax returns per calendar year after December 31, 2010, must file them electronically.



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for preparers to register and take competency examinations. The action plan appropriately established target dates, key interim milestones, and major end-state milestones through May 2011.

Figure 1 shows significant milestones for the IRS for the first 5 months after it announced its new Return Preparer Program.

Figure 1: Return Preparer Program Milestones Through May 2010

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- January 4** **Announced proposed new registration requirements for preparers.** The IRS announced on January 4, 2010, proposed new registration, testing, and continuing professional education requirements for tax return preparers not already subject to oversight. All paid tax return preparers who must sign a Federal tax return will be required to register with the IRS and obtain a PTIN.²
 - January 7** **Established a project office.** The IRS established an implementation governance structure with an Executive Lead, Project Manager, and a RPI Project Office.
 - January 13** **Began solicitation to procure vendor support.** The IRS posted the Request for Proposal to assist the IRS in the registration of preparers. The Request for Proposal lists a tentative introduction date for an online registration system of September 1, 2010.
 - March 26** **Issued the first notice of proposed rulemaking.** Issued a notice of proposed rulemaking that contained proposed guidance to preparers on furnishing an identifying number on tax returns they prepare.
 - April 2010** **Formally initiated the subteams.** The Project Office held an IRS-wide kickoff meeting with representatives from various other IRS offices who are serving as team members on the project. Their role is to bring technical expertise to assist with project implementation.
 - May 3** **Awarded the Registration System contract.** The vendor will establish and maintain a system for online registration and renewal, user fee collection, and issuance of PTINs.
 - May 6** **Held a public hearing on requiring PTINs.** The IRS held a public hearing on the proposed rulemaking providing guidance to tax return preparers on furnishing an identifying number on tax returns they prepare.
 - May 10** **Finalized the RPI Project Office charter.** The charter includes project scope, objective, roles, responsibilities, high-level work schedule, risk and issue management, and key internal and external stakeholders.

Source: IRS news releases and the RPI Project Office.

² The IRS first developed the PTIN to be used by a preparer who did not want to disclose his or her Social Security Number on tax returns he or she prepared. It is a nine-character alpha/numeric issued by the IRS beginning with the letter "P" followed by eight numeric digits.



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A stakeholder outreach campaign has been maintained since the IRS announced it is implementing new preparer requirements

In February 2010, to ensure all stakeholders were aware of the new regulations and how they will be affected, the Communications Team established a Communications Plan. The Plan identified the various audiences and stakeholders, the different phases (initial announcement, pre-launch, registration, testing, and the 2011 Filing Season) of the Plan, and the message content and communications vehicles for each communication. To date, the IRS has:

- Issued press releases.
- Issued notices of proposed rulemakings.
- Held public hearings.
- Presented the new regulations to numerous professional organizations, including the American Institute of Certified Public Accountants, American Bar Association, Certified Financial Planner Board of Standards, National Society of Accountants, Latino Tax Professionals Association, and National Association of Enrolled Agents.
- Devoted a webpage on its public Internet site, IRS.gov, to “Proposed New Requirements for Tax Return Preparers.” Since January 1, 2010, the webpage has had more than one-half a million visits. The webpage, Frequently Asked Questions, has had more than 100,000 views.³
- Plans to make presentations at its six IRS Nationwide Tax Forums. The Tax Forums offer tax professionals 3 days of seminars with the latest word from IRS leadership and experts in the fields of tax law, compliance, and ethics. Each Forum includes two sessions and a focus group on the new preparer requirements.

The IRS also plans to create and provide to the public a searchable database of registered return preparers. However, a public database will not be available in Calendar Year 2011. The suitability and background checks, as well as the testing and continuing professional education requirements, need to be in place before a list of registered return preparers can be made available to the public.

Comments were solicited from the public on the proposal to require preparers to register and have PTINs

More than 200 written comments were received in response to the notice of proposed rulemaking published March 26, 2010, relating to the requirement for all preparers to register for a PTIN.⁴

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³ Through May 2010.

⁴ Furnishing Identifying Number of Tax Return Preparer, Regulation 134235-08.



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All of the public comments will be considered and addressed in the final regulations. Most of the comments received support the requirement to use a PTIN as the exclusive identifying number for tax return preparers beginning in Calendar Year 2011. See Appendix IV for a summary of the major issues raised by the public and the IRS' proposed responses/decisions based on the comments.

The Registration System and user fee are being developed

In May 2010, after considering 15 responses to its Request for Proposal to develop a registration system, the IRS selected a vendor to create a system for online registration of paid tax return preparers. The vendor will develop and maintain the registration application system, as well as address related questions. The IRS plans to maintain full oversight of the registration process and registered preparers.

As of June 29, 2010, when audit testing ended, the Registration System requirements and user fee had not been finalized. A review of the Registration System vendor deliverables shows:

- The System will have the capability to, for example:
 - Issue, renew, and maintain PTINs and applicant data obtained at the time of application and any data updated after assignment of a PTIN.
 - Securely collect online registration fees.
 - Track continuing professional education requirements and not authorize renewal if continuing professional education requirements are not met.
 - Enable users to self manage their profiles online, including the ability to update certain application information (e.g., change address and input annual continuing education course information, at any time).
 - Issue alerts to the IRS as key information items are changed to facilitate necessary IRS followup actions.
 - Issue a paper certificate to return preparers upon completion of test requirements.
 - Include systemic notice issuance to preparers using pre-established business rules. These notices will serve as reminders of upcoming or past-due requirements.
- Online registration will be the primary method to register, but a paper application process will be available.



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- Applicants will provide: personal identifying information; current PTIN if they have one; business name, address, and Employer Identification Number; email address; Internet web site; professional designations/certifications with associated license to practice before the State; Electronic Filing Identification Number; Centralized Authorization File number;⁵ if convicted of a felony in the past 10 years (with explanation opportunity on the system); and if current on both individual and business Federal taxes (with explanation opportunity on the system).

The capability to randomly select records for program compliance audits and forward information to the IRS is planned. The System is also to have the capability to generate ad hoc reports. In addition, IRS officials advised that the TIGTA will have access to the system. However, the System is still under development and has not been tested.

The user fee is being calculated to cover all Program costs

The cost of implementing the Return Preparer Program falls primarily on tax return preparers, because it is being funded by a user fee instead of through the IRS budget. Comments from the proposed requirements included concerns that a user fee, combined with the potential costs of minimum competency testing and for continuing professional education, would materially increase tax return preparers' business expenses.

User fees are required by Federal law for services that primarily benefit individual recipients over and above any benefit that might accrue to the general public.⁶ User fees should offset the full cost of providing a special service. Both the Department of the Treasury and the Office of Management and Budget must approve new and increased user fees proposed by the IRS.

The IRS has not finalized the amount of the user fee. The user fee will cover either 1 or 3 years (i.e., preparers will pay to obtain a PTIN that will have to be renewed after either 1 or 3 years). The IRS is studying the costs and alternatives. The IRS estimates that the Return Preparer Program's annual costs total more than \$59 million. The IRS plans to include all Program costs in the user fee, for example, costs associated with the Program Management Office, registration/renewal, information technology, communications and support, and compliance.

***The IRS is studying the
alternatives of the user fee
covering either 1 or 3 years.***

In addition to the user fee, the vendor will charge a fee. Both fees will be incorporated into one fee to obtain a PTIN. The initial fee to obtain a PTIN may be more than the fee to renew the PTIN.

⁵ The Centralized Authorization File number is assigned to representatives when a power of attorney is filed with the IRS.

⁶ 31 U.S.C. Section 9701 (2000 suppl. 5), Fees and Charges for Government Services and Things of Value.



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There Are Drawbacks to Registering Preparers Before Establishing All Guidelines and Regulations

One of the IRS' first decisions after the issuance of the Return Preparer Review was to require that all preparers who prepare and file tax returns register for a PTIN. When the IRS set a target date to register preparers in September 2010, it had only begun to implement the Return Preparer Program and had not:

- Established all Program requirements or how it would test to ensure all preparers meet the requirements.
- Determined or established the organizational structure of the Return Preparer Program, including staffing requirements.
- Determined how the IRS will enforce program requirements.
- Developed the system(s) and/or processes necessary to administer and oversee the Program.

Until all Program requirements are established, systems and procedures cannot be finalized. Many processes and procedures will have to be phased in, possibly requiring the IRS to expend additional resources to revise publications and reprogram systems.

Without an organizational structure with dedicated resources, the IRS cannot initially conduct suitability tests to ensure all preparers meet Program requirements. The IRS will have to dedicate future resources to remove preparers who are later identified as not meeting Program requirements. If noncompliant preparers are not identified and immediately removed from the Program, they will continue to prepare tax returns, risking the credibility of the Program and burdening taxpayers.

In the Proposed Regulations, the IRS is requiring that preparers obtain PTINs before the 2011 Filing Season to allow it to identify the population of preparers and begin tracking their activity

Although there is certainly merit to obtaining a better understanding of the preparer population, the initial population of registered preparers identified in Calendar Year 2010 may not be a true representation of the final preparer population in Calendar Year 2014,

Non-Practitioners, who register and obtain PTINs, will be referred to as IRS Registered Tax Return Preparers after meeting all requirements, including passing the competency tests.



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after the information on their applications is verified, suitability checks⁷ are conducted, and preparers have taken the competency test.

The majority of the preparers applying for a PTIN will not be practitioners (attorneys, Certified Public Accountants, or Enrolled Agents). In a July 2009 report⁸ on preparers, the TIGTA estimated that 73 percent of the more than 1 million tax return preparers were unregulated. This compares to the IRS' estimate that there are approximately 650,000 unregulated preparers. It is likely that many of them will not take or pass the competency test, and some will ultimately not pass suitability checks, eliminating them from the preparer Program. Thus, the preparer population in the future could vary significantly from the current population.

In addition, because the IRS is issuing the PTIN before requiring non-practitioners to take the competency test, the PTIN will not differentiate between practitioners and registered preparers. Neither the IRS nor taxpayers will be able to determine from the PTIN whether the preparer is a practitioner or a registered preparer.

Nevertheless, after the initial registration, the IRS will have a better picture of the preparer population and an indication of how many preparers may be practitioners. This might also allow the IRS to identify and track preparers who initially register for a PTIN but never take the competency examination *and* still prepare tax returns after Calendar Year 2013. However, this will require additional IRS resources to identify and remove these preparers from the registered preparer database and, if necessary, ensure appropriate enforcement actions are taken.

Suitability checks on applicants will not be completed until after April 2011

Because the IRS does not have the resources, systems, or processes in place to appropriately screen applicants and conduct suitability checks on preparers applying for PTINs in Calendar Year 2010, there will not be any assurance until Calendar Year 2014 that all preparers meet Program requirements.

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⁷ Verifications and suitability checks include verifying information the preparers provide on their applications, verifying applicants meet minimum standards, and conducting tax compliance and background checks.

⁸ *Inadequate Data on Paid Preparers Impedes Effective Oversight* (Reference Number 2009-40-098, dated July 14, 2009).



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The *e-file* Provider Program uses an automated process to check and monitor tax compliance of both applicants and existing approved *e-file* Providers. *****2(f)*****

*****2(f)***** and the competency test, if required, will have to be passed before the PTIN is issued. The IRS anticipates implementing background/fingerprint checks *****2(f)*****
*****2(f)*****. Preparers will initially be offered two competency tests. They choose either test, based on the type of tax returns they plan to prepare. The two tests are:

- 1) Wage and non-business income reported on U.S. Individual Income Tax Return (Form 1040), as well as simple business income reported on Form 1040 to include Net Profit from Business (Schedule C-EZ).
- 2) Wage and non-business income reported on Form 1040, as well as business income reported on Form 1040 to include Profit or Loss From Business (Schedule C), Profit or Loss From Farming (Schedule F), and various other Form 1040 schedules and forms.

The IRS plans to add a third test with regard to business tax rules in the future.

PTIN applicants will sign their applications under penalties of perjury. Once all suitability tests are complete, preparers whom the IRS has determined to have misrepresented facts or been untruthful on their applications will have their PTINs deactivated and will be removed from the Program. They will then be unable to lawfully prepare Federal tax returns for a fee.

⁹ Only attorneys, Certified Public Accountants, or Enrolled Agents who are active and in good standing with their respective licensing agencies are exempt from competency testing.



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Although the IRS has shown improvements over the last few years, since Fiscal Year 2002 the TIGTA has reported¹⁰ that the IRS does not effectively screen *e-file* Provider¹¹ applicants or monitor them to ensure they meet all the requirements and are following guidelines when *e-filing* tax returns. The application screening process does not ensure the integrity of the individuals applying for participation in the *e-file* Program, and the monitoring program does not ensure *e-file* Providers are compliant with *e-file* Program requirements.

In September 2006, the TIGTA also reported¹² that the IRS did not have consistent criteria for issuing Enrolled Agent licenses. As a result, taxpayers did not have assurance that Enrolled Agents are eligible to represent them before the IRS, have a broad range of technical skills, are compliant with their own tax obligations, and have not been convicted of a felony.

Inadequate screening increases the risk to both the taxpaying public and the Federal Government for potential losses associated with unscrupulous *e-file* Providers and Enrolled Agents. The TIGTA wants to ensure that the improvements made to the *e-file* Provider and Enrolled Agent Programs are carried over to the Return Preparer Program.

Some preparers will be issued provisional PTINs

While the IRS is conducting its user fee impact study, it will be issuing 1-year PTINs. Attorneys, Certified Public Accountants, and Enrolled Agents will receive permanent PTINs.

- Applicants, who *are not* practitioners and self-disclose a tax compliance issue or a felony conviction, will be issued a provisional PTIN for 1 year. If the PTIN is later revoked, the applicant may appeal, but the due process will be shortened.
- Applicants who *are not* practitioners and *do not* self-disclose a tax compliance issue or a felony conviction, will be issued a provisional PTIN for 1 year. The PTIN will become permanent only when/if the preparer passes the competency examination.

Preparers issued permanent or provisional PTINs fall under Circular 230 and will be granted due process should the IRS propose to remove them from the Program.

¹⁰ *Better Screening and Monitoring of E-File Providers Is Needed to Minimize the Risk of Unscrupulous Providers Participating in the E-File Program* (Reference Number 2007-40-176, dated September 19, 2007), *Improvements to the Electronic Return Originator Monitoring Program Are Needed* (Reference Number 2003-30-039, dated January 15, 2003), *Improvements Are Needed in the Screening and Monitoring of E-File Providers to Protect Against Filing Fraud* (Reference Number 2004-40-013, dated November 3, 2003), and *E-File Providers Are Not Adequately Screened* (Reference Number 2002-40-111, dated June 27, 2002).

¹¹ The *e-file* Program enables tax returns to be sent to the IRS in an electronic format via an authorized IRS *e-file* Provider. *E-file* Providers include EROs, Transmitters, and Software Developers.

¹² *The Office of Professional Responsibility Does Not Always Ensure Enrolled Agents Are Qualified, and System Limitations Prevented Identification of Ineligible Representatives* (Reference Number 2006-10-170, dated September 29, 2006).



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Preparers registering before competency testing is implemented will be given 3 years to pass the competency examination. Testing is planned to be available by the middle of Calendar Year 2011. Preparers who register before testing is implemented have until December 31, 2013, to pass the competency examination. In contrast, preparers seeking a PTIN once the competency examinations are made available will have to take and pass the exam *before* they receive their PTINs.

Preparers who are foreigners and members of certain religious communities required additional considerations because they do not have Social Security Numbers

Historically, the IRS has required that preparers use their Social Security Numbers to obtain a PTIN and to apply for the *e-file* Provider and Enrolled Agent Programs. However, there are preparers who are foreign nationals working outside the U.S. who do not have Social Security Numbers. There are also preparers who are members of certain religious communities who, because of their beliefs, do not obtain Social Security Numbers.

The IRS plans to create a process for foreign preparers and preparers from certain religious communities to use the Individual Taxpayer Identification Number (ITIN)¹³ process to apply for a PTIN.

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Only a sample of professional credentials will be validated

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*****. The TIGTA estimates approximately 23 percent of preparers (about 265,000) are attorneys or Certified Public Accountants.

¹³ The ITIN is available for individuals who are required to have a taxpayer identification number for tax purposes but who do not have and are not eligible for a Social Security Number. Individuals must have a filing requirement and file a valid Federal income tax return to receive an ITIN, unless they meet an exception.



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The *e-file* Provider Program requires that attorneys, Certified Public Accountants, Enrolled Agents, and banking officials mail in verifications of their professional credentials, because they are exempt from the fingerprint and background checks. Not-for-Profit applicants are excluded from all *e-file* Program requirements and suitability checks, but the IRS is now checking their Not-for-Profit status.

Research has not been completed to determine the disparities or overlap between the requirements for the various IRS preparer programs

The IRS has not determined how the Return Preparer Program will affect its other preparer programs – the *e-file* Provider, Enrolled Agent, and Acceptance Agents Programs. Some preparers can and will be all four types of preparers. For example, there is an age requirement for the *e-file* Provider and Acceptance Agent Programs, but not for the Enrolled Agent and Return Preparer Programs. In addition, preparers may be subjected to the same requirements multiple times when applying or renewing enrollments in the three programs. This would also cause the IRS to spend unnecessary resources.

- ***E-file Providers.***¹⁴ *E-file* Providers must be 21 years of age as of the date of the application, must be a U.S. citizen or legal alien, and must submit a fingerprint card. Individuals with professional certifications submit a copy of the certification in lieu of fingerprint cards or for Enrolled Agents, their enrolled agent number is sufficient proof of professional status. The IRS does not require a test or fee to become an *e-file* Provider. Once enrolled, participants do not have to renew their enrollment and continuing professional education is not required. If a tax return is submitted with an incorrect *e-filing* number, the tax return is rejected.

Validations and suitability checks¹⁵ include: (1) verification that applicants are at least 21 years of age and not using the identity of a deceased person, (2) verification that applicants are either U.S. citizens or legal aliens with authorization to work in the U.S.

¹⁴ *E-file* Providers facilitate *e-filing* tax returns. They can be an ERO, Intermediate Service Provider, Transmitter, Software Developer, or Reporting Agent. See Appendix V for a detailed description of each.

¹⁵ All authorized *e-file* Providers, except those that function solely as Software Developers, must meet requirements and pass suitability checks prior to acceptance into the *e-file* Program.



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(3) questions on the application regarding felony convictions (a background check is also performed), (4) questions on the application regarding tax compliance (an automated tax compliance check is performed on an ongoing basis to ensure all required tax returns are filed and paid and to identify fraud and preparer penalties), and (5) verification of Not-For-Profit status. Not-for-Profit applicants are excluded from all *e-file* Program requirements and suitability checks.

- **Enrolled Agent Program.** The Enrolled Agent Program does not have a minimum age requirement. Unless applicants are prior IRS employees, who meet specific criteria, applicants to the Enrolled Agent Program must pass a three-part Special Enrollment Examination before being accepted into the Program. Applicants must provide a Social Security Number and information about any alleged misconduct or convictions for violating any law. *****2(f)*****. The application fee is \$125 and each part of the test has a fee of \$101. Once enrolled, Enrolled Agents must renew every 3 years and complete annual continuing professional education. Suitability checks include a tax compliance check. The enrolled agent number is not required to be used on the tax returns.
- **Acceptance Agent Program.**¹⁶ Program requirement verifications include verifying that new applicants are at least 21 years of age and whether the applicants are indeed EROs if they state they are. IRS employees also research IRS computer systems to verify the Employer Identification Numbers and Social Security Numbers and if a green card¹⁷ is required and is submitted with the application. Not-for-Profit organizations are required to submit a copy of the IRS exemption letter. Suitability checks include a manual tax compliance check, which includes the same criteria as the *e-file* Providers. Acceptance Agents reapply to the Program every 4 years. *****2(f)*****. Certain businesses/organizations and applicants with professional certifications are not required to submit fingerprint cards. Individuals with professional certifications are required to submit a copy of the certification in lieu of the fingerprint card, including Enrolled Agents.

The IRS is studying the requirements for all preparer programs to determine the basis for each program's requirements and identify the differences, for example, why *e-file* Providers and Acceptance Agents have to be 21 years of age, but Enrolled Agents do not. The IRS is also comparing suitability testing between the programs to identify duplications, for example, if

¹⁶ An Acceptance Agent is a person (an individual or an entity) who, pursuant to a written agreement with the IRS, is authorized to assist alien individuals and other foreign persons (who are ineligible to receive a Social Security Number) in obtaining an ITIN from the IRS.

¹⁷ A green card, or permanent residence card, gives an individual official immigration status (Lawful Permanent Residency) in the U.S.



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preparers are subjected to the same suitability tests for multiple programs, particularly the Return Preparer and the Enrolled Agent Programs. This will allow the IRS to determine if it can avoid duplicate suitability tests and save resources and/or reduce user fees accordingly.

Recommendations

The Deputy Commissioner for Services and Enforcement should:

Recommendation 1: Provide sufficient resources to *****2(f)*****

*****.

Management's Response: IRS management partially agreed with this recommendation to *****2(f)*****

***** . The IRS will ask for additional documentation where discrepancies are found.

Based on its initial reviews, the IRS will develop a strategy to address this going forward and adjust as appropriate. *****2(f)*****

Recommendation 2: *****2(f)*****

*****.

Management's Response: *****2(f)*****
***** . Beginning with the September 2010 implementation, or such time as the system becomes available, it plans to verify internal IRS records for date of death.
*****2(f)*****
***** . Based on the results of the analysis, the IRS will take action to address this issue as appropriate.

Recommendation 3: Complete the study comparing the four preparer programs to (1) gain an understanding of the basis for the requirements and if they should apply to each program, (2) ensure consistencies in the requirements and suitability testing among the programs, and (3) identify any overlaps, including user fees, among the programs.



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Management's Response: IRS management agreed with this recommendation. The IRS plans to review all of these existing programs and to leverage existing best practices when appropriate. The IRS is currently evaluating the *e-file* processes and making adjustments to be applied when the PTIN system is operational.

It Will Take Years to Implement the Return Preparer Program and to Realize Its Impact

The new preparer requirements will take several years to implement, and it will not be until Calendar Year 2014 that all preparers will be subjected to all suitability and competency tests. During that time, the IRS will be developing and implementing an enforcement strategy. A strong enforcement program is essential for taxpayers and preparers to have confidence in the Program. The IRS will also need to ensure taxpayers understand the new requirements and the importance of using only registered preparers to prepare their tax returns.

A management information system is essential to administer the Return Preparer Program

In its Return Preparer Report, the IRS stated that it plans to develop an enforcement strategy that uses data gathered on preparers to address individuals who fail to comply with the new regulations. Currently, the IRS does not have a sufficient management information system to effectively achieve this goal.

In Fiscal Year 2007, the IRS investigated the need for a database that could control and monitor all paid preparers and a \$48 million data management system was proposed. This proposed system would integrate 22 existing IRS systems, connecting preparer return information on an IRS-wide basis. The proposed system was a centralized database of preparer information and would have created automated mechanisms to ensure that return preparers are adhering to professional standards of conduct and following the law. Because the estimated costs to develop and maintain the system for 10 years were \$48 million, the system was not approved for development.

Nevertheless, the IRS must develop a system to capture all the data necessary for an effective compliance and enforcement program. The IRS will need a system that, for example:

- Integrates with the Registration System to obtain the identities and qualifications of the preparers.
- Integrates with other existing IRS systems.
- Has the ability to match preparers to the tax returns they prepare to determine if they are preparing tax returns they are qualified to prepare or if they are complying with the *e-file* mandate.



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- Monitors preparers' tax compliance.
- Tracks errors made on tax returns and results of examinations of tax returns.
- Tracks preparer penalties.

Further, the system must be able to track and monitor taxpayer complaints. In February 2009, the TIGTA reported¹⁸ that the IRS' current process for handling taxpayer complaints against preparers does not identify potential problem preparers so the IRS can determine the extent of noncompliance, if any, or how the noncompliance should be addressed. Complaints are generally not controlled and tracked.

The IRS acknowledges that it needs to develop this system, but has not yet begun to plan for its development. Only when the IRS has a data system in place can it begin to determine the effect the Return Preparer Program has on tax compliance. It will have to gather several years of data, establish a baseline, and track progress.

A comprehensive enforcement strategy is planned

The Return Preparer Review states that the IRS will:

- Implement a comprehensive enforcement strategy – applying significant examination and collection resources to tax return preparer compliance.
- Study how to enhance the effectiveness of traditional enforcement tools and incorporate new non-traditional enforcement tools (e.g., directed notices and preparer visits).
- Study the impact of enforcement on taxpayer compliance and consider further changes dependent on the outcomes realized.
- Increase the coordination among its operating divisions and increase the staffing of the Office of Professional Responsibility to allow for increased investigations of practitioners, including tax return preparer misconduct.

The IRS is cognizant that the upcoming Return Preparer Program and *e-file* mandate requirements represent significant changes for most paid preparers. It plans to phase in the new requirements. It also plans for the first few years to focus on educating preparers on the changes it is implementing rather than compliance and enforcement.

For preparers who are not complying with Program requirements, the IRS initially plans to send notices to advise them of concerns and encourage future compliance. Later actions will include imposing penalties and suspension/removal from the Program. All registered preparers will be governed by the revised Circular 230.

¹⁸ *The Process Taxpayers Must Use to Report Complaints Against Tax Return Preparers Is Ineffective and Causes Unnecessary Taxpayer Burden* (Reference Number 2009-40-032, dated February 24, 2009).



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*****2(f)*****

*****.

The IRS has not determined how it will identify registered preparers who prepare tax returns they are not qualified to prepare.

Registered preparers will initially be required to pass one of two competency tests to prepare tax returns. Eventually, the IRS plans to add a third test. The IRS will need to develop a system to identify when preparers prepare tax returns they are not qualified to prepare. The IRS will need to decide a tolerance level for noncompliance, develop a control to identify noncompliant preparers, and develop a plan to enforce the requirement.

The e-file mandate will be phased in over 2 years

Congress recently approved a Federal *e-file* mandate for tax return preparers, based on recommendations from the IRS, the TIGTA, and the Electronic Tax Administration Advisory Council. Per the proposed regulations, the requirement will be phased in over 2 years. As a result of the new rules, preparers will be required to start using IRS *e-file* beginning:

- **January 1, 2011**, for those preparers who anticipate preparing **100 or more** Federal individual or trust tax returns during the year.
- **January 1, 2012**, for those of preparers who anticipate preparing **11 or more** Federal individual or trust tax returns during the year.

Proposed regulations state that preparers will be able to obtain a waiver based on certain criteria, for example, hardship situations. Taxpayers may also opt out of *e-filing* their tax returns, possibly by signing a form and attaching it to their tax returns. The IRS is still planning how it will administer this mandate and track compliance. It must determine how it will process and track waivers and how it will ensure preparers are compliant with the mandate. The TIGTA will be conducting an audit in Fiscal Year 2011 to evaluate how the IRS is administering the *e-file* mandate.

A multi-year strategy is necessary to educate taxpayers on the Return Preparer Program

The IRS has issued multiple news releases and has posted information on its Tax Professional webpage on IRS.gov concerning the new preparer requirements. Its communications have generally centered on tax professionals and with tax professional organizations. IRS officials stated that until most registered preparers have taken and passed the competency examination, it does not plan to conduct any significant outreach to taxpayers on the new preparer requirements.

Nevertheless, the IRS will continue to have news releases on the progress of the Return Preparer Program. It needs to begin to educate taxpayers on the new preparer requirements. As the IRS



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has done in the past, it needs to educate the public to make them aware of the importance of exercising due diligence when choosing a preparer. The IRS also needs to continue to advise taxpayers that all paid preparers must sign and include their PTIN on the tax return.

Over the next 3 years, taxpayers must also be made aware that until January 2014, not all registered preparers will have passed all requirements, and having a PTIN does not mean the preparer has met any minimum standards.

The IRS does not plan to provide the public with a searchable database of registered preparers until Calendar Year 2014. At that time, the database will allow taxpayers to confirm that their preparer is registered and compliant. The public database will also encourage noncompliant preparers to register and comply with the standards.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to monitor and evaluate the IRS' implementation of the Return Preparer Strategy. The scope of this audit was limited to the planning, design, and implementation of the Return Preparer Registration System and planning for the implementation of future phases of the Return Preparer Strategy. To accomplish the objective, we:

- I. Evaluated the effectiveness of the IRS' overall planning process for the Return Preparer Strategy.
 - A. Assessed the RPI team's efforts to implement and use the IRS' Enterprise Life Cycle, specifically, project management processes and activities.
 - B. Assessed the adequacy of Requirements and Configuration Management; efforts to track and manage contractor performance; and efforts to identify, assess, and manage project risks.
- II. Determined whether the IRS' objectives for the implementation of the Return Preparer Strategy can be achieved for registration, suitability, monitoring, and enforcement.
 - A. Reviewed and evaluated the proposed design of the Return Preparer Registration System.
 1. Reviewed the vendor's contract for the Return Preparer Registration System to determine whether the IRS will receive what it requested, if there were modifications from the Statement of Objectives in the contract proposal, and the user fee and whether it will cover the cost of the contract.
 2. Participated in meetings between the IRS and the vendor to provide feedback on the implementation of the Return Preparer Registration System.
 - B. Compared the proposed design and requirements for the Return Preparer Registration System to the process and requirements for *e-file* Provider and Enrolled Agent registration, renewal, and testing.
 - C. Determined what steps the IRS has taken to ensure suitability processes will be in place for return preparers.
 - D. Determined what steps the IRS has taken to ensure monitoring processes will be in place for return preparers.
 - E. Determined what steps the IRS has taken to ensure enforcement processes will be in place for return preparers.



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- F. Determined the impact/accepted risk of the IRS' design decisions for the registration database on the Return Preparer Strategy.
- III. Reviewed and evaluated the IRS' plans to renew the return preparers' registration.
 - A. Determined what the IRS requirements will be for return preparers to renew their registration.
 - B. Determined the time period for the requirements to renew the return preparers.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. This audit did not include reviewing existing IRS processes or procedures, but focused on the design and implementation of the Return Preparer Program. We only considered internal controls in the IRS' design of the Program to control, track, and monitor return preparers.



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Appendix II

Major Contributors to This Report

Michael E. McKenney, Assistant Inspector General for Audit (Returns Processing and Account Services)

Augusta R. Cook, Director

Wilma Figueroa, Acting Audit Manager

Pamela DeSimone, Lead Auditor

Roberta A. Fuller, Auditor



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Commissioner, Wage and Investment Division SE:W
Director, Office of Professional Responsibility SE:OPR
Director, Electronic Tax Administration and Refundable Credits, Wage and Investment Division
SE:W:ETARC
Director, Strategy and Finance, Wage and Investment Division SE:W:S
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaison: Chief, Program Evaluation and Improvement, Wage and Investment Division
SE:W:S:PRA:PEI



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Appendix IV

*Public Comments and Internal Revenue Service
Responses¹ on Proposed Preparer Tax Identification
Number Regulations*

Public Comments	IRS' Proposed Responses/Decisions
<p>Non-Signing Preparers Under Supervision - Individuals who prepare or assist in preparing all or substantially all of a tax return or claim for refund should not be required to obtain a PTIN if they do not sign the tax return or claim for refund and if they act under the supervision of another tax return preparer who substantively reviews the tax return or claim for refund and signs it.</p>	<p>The IRS and the Department of the Treasury (Treasury Department) believe that the requested exemption will undermine the IRS' ability to regulate tax return preparers in a meaningful manner. Registering all paid tax return preparers (through means of a PTIN) is the necessary first step to more effective oversight of tax return preparation. Distinguishing between signing and nonsigning tax return preparers in the final regulations would be inconsistent with relevant penalty provisions.</p>
<p>Grandfathering - A number of comments were received from State-licensed tax return preparers, particularly from those who are Licensed Tax Preparers or Licensed Tax Consultants in Oregon. These comments almost uniformly requested that State-licensed tax return preparers should be "grandfathered" into the regulations. Other commentators asked that the IRS consider an exemption from the regulations for tax return preparers who have been preparers for a certain period of years or who prepare annually a volume of tax returns below a certain (relatively small) number. Some commentators, however, were opposed to exemptions or grandfather provisions.</p>	<p>The IRS and the Treasury Department believe that because the scope and purpose of the regulations are meant to apply to all paid tax return preparers, no subgroup can be exempt. If they are to be effective, the regulations must apply to all tax return preparers as defined. Indeed, the benefit to rules, that operate across the industry and nationwide, is consistency among tax return preparers and from State to State.</p>

¹ The responses address public comments to proposed regulations and may not reflect final decisions by the IRS.



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Public Comments	IRS' Proposed Responses/Decisions
<p>Volunteers/Free Tax Preparation With a Purchase of Goods - Several commentators recommended that the final regulations require volunteer tax return preparers to obtain a PTIN, but waive the fee. According to the commentators, putting volunteers under the regulations would provide several benefits, including increased tax compliance and improvement of the volunteer programs. The comments also noted that extending the regulations to all tax return preparers who hold themselves out to the public as tax return preparers would unambiguously include individuals who prepare tax returns for customers purportedly for "free" but incident to a customer's purchase of a product or other service.</p>	<p>The IRS and the Treasury Department believe that the proposed regulations are properly limited to paid tax return preparers. The regulations explicitly define "tax return preparer" as an individual who is compensated for being a tax return preparer. In addition, volunteer tax return preparers are a small fraction of all tax return preparers, and the tax returns prepared by volunteers are a small fraction of all prepared tax returns.</p> <p>The IRS and the Treasury Department believe that arrangements for tax return preparation as part of a sales transaction are, in fact, agreements to prepare tax returns for compensation, notwithstanding any claim that the tax return or claim preparation is uncompensated. Under these circumstances, an individual who, in connection with a sale of goods or services, prepares all or substantially all of a tax return or claim for refund filed after December 31, 2010, and who does not furnish a valid PTIN on the tax return or claim for refund may be liable for the Section 6695(c) penalty, unless the failure to furnish a valid PTIN was due to reasonable cause and not due to willful neglect.</p>
<p>Tax Return Preparation Software - Several commentators raised the prospect of expanding the regulations to include tax return preparation software. The comments propose to address this problem by placing limitations on the ability to purchase or use a unit of software capable of generating multiple "self-prepared" tax returns. It was suggested, for example, that a PTIN could be required to use the software to prepare more than one tax return.</p>	<p>The proposed regulations do not include any provisions with respect to software. Software Developers are not tax return preparers for purposes of these final regulations, and the regulation of software is beyond the scope of these amendments to Section 1.6109-2. It should be noted, however, that the Return Preparer Report provided that the IRS would form a task force of industry representatives, State governments, and other stakeholders to study, among other issues, the possibility of establishing industry standards in the area of tax return preparation software.</p>



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Public Comments	IRS' Proposed Responses/Decisions
<p>Requiring the Use of a PTIN After December 31, 2010 - Some commentators questioned whether, as a matter of implementation, January 1, 2011, is a realistic date for the requirements of these regulations.</p>	<p>The proposed regulations maintain the distinction between tax returns and claims for refund filed on or before December 31, 2010, and those filed after that date. The IRS' implementation is based on the date of applicability of the final regulations. In addition, pursuant to Section 1.6109-2(h) of the final regulations, the IRS and the Treasury Department may prescribe in other guidance transitional procedures for tax return preparers to apply for a PTIN or register with the IRS.</p>
<p>Foreign Tax Return Preparers - A frequent question in the public comments was whether the regulations as proposed would apply to foreign tax return preparers. These commentators also asked whether foreign tax return preparers who do not have a Social Security Number will be eligible for a PTIN. Many foreign tax return preparers are uncertain as to how they will obtain a PTIN, if they are required to have one. Application for Preparer Tax Identification (Form W-7P) and the current online process at IRS.gov to apply for a PTIN require an applicant to provide the applicant's Social Security Number.</p>	<p>The proposed regulations apply to tax return preparers regardless of U.S. or foreign citizenship or residency. The IRS will establish a process to obtain a PTIN for tax return preparers who do not have Social Security Numbers. In addition, the IRS and the Treasury Department intend to issue transitional guidance before December 31, 2010, which describes the process to obtain a PTIN for foreign and other tax return preparers who do not have Social Security Numbers.</p>
<p>User Fees - Some commentators objected to the proposed requirement of a user fee to obtain or renew a PTIN. Sole proprietors and small preparation firms commented that a user fee, combined with the potential costs of minimum competency testing and for continuing professional education, would materially increase their business expenses.</p>	<p>Congress has authorized Federal agencies to establish user fees. The IRS will prescribe in forms, instructions, or other guidance a requirement to pay a user fee, the amount of any fee, and the time and manner of payment. The IRS and the Treasury Department anticipate that a user fee to obtain or renew a PTIN will be necessary to recover the costs that the IRS will incur to implement and administer the processes to apply for and renew a PTIN. The IRS and the Treasury Department also anticipate that the amount of a user fee will be reasonable and based on accepted methods of calculation that reflect the costs to the Government, the value of the service to the recipient, the public policy or interest served, and other relevant facts.</p>



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Public Comments

Terminology - A number of the comments voiced a concern that the term “registered tax return preparer” is likely to cause confusion in the marketplace for tax return preparation. The commentators are concerned that this designation for a certain group of tax return preparers, when listed with attorneys, Certified Public Accountants, and Enrolled Agents, may lead the public to mistakenly infer that registered tax return preparers have credentials and qualifications similar to those of attorneys, Certified Public Accountants, and Enrolled Agents. Several commentators observed that some registered tax return preparers might even attempt to exploit this confusion to their commercial advantage. To avoid the potential for misperception, the commentators advocate that the IRS explain for the public’s benefit the distinctions between registered tax return preparers and other practitioners authorized to practice before the IRS under Circular 230. At least one commentator also recommended changing the term to “authorized tax return preparers.”

IRS’ Proposed Responses/Decisions

The proposed regulations adopt the term “registered tax return preparer.” The IRS and the Treasury Department believe that the term does not reasonably imply that registered tax return preparers are authorized to practice law or Certified Public Accountancy or act as Enrolled Agents. The IRS and the Treasury Department do not anticipate that the term will cause material confusion or misunderstanding by the public.

The IRS and the Treasury Department will elaborate on the role of registered tax return preparers and their authority to practice before the IRS in amendments to Circular 230. The IRS and the Treasury Department will also set forth in forms, instructions, and other appropriate guidance the requirements and process to become a registered tax return preparer.

Source: The RPI Office.



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Appendix V

Types of Authorized E-File Providers

Electronic Return Originator (ERO)	EROs originate the electronic submission of income tax returns to the IRS. An ERO electronically submits income tax returns that are either prepared by the ERO firm or received from a taxpayer.
Intermediate Service Providers	Intermediate Service Providers receive tax return information from EROs or from taxpayers who file electronically using a personal computer, modem, and commercial tax preparation software on an Internet site; process the tax return information; and either forward the information to a transmitter or send the information back to the EROs or taxpayers.
Transmitters	Once the return is prepared, the income tax return data are sent to the IRS by a Transmitter. Transmitters must have software and modems that allow them to connect with IRS computers. EROs and Intermediate Service Providers may also apply to be Transmitters and transmit return data themselves or they may contract with accepted third-party Transmitters who will transmit the data for them.
Software Developers	Software Developers write the <i>e-file</i> programs according to IRS file specifications and record layouts making IRS <i>e-file</i> and Federal/State <i>e-file</i> possible. The IRS and participating States require that all software pass a series of tests each year. Once approved, this software may be sold and used by EROs.
Reporting Agents	A Reporting Agent is an accounting service, franchiser, bank, or other person that complies with regulations and procedures and is authorized to <i>e-file</i> Employer's Annual Federal Unemployment Tax Return (Form 940) and Employer's Quarterly Federal Tax Return (Form 941) for a taxpayer.

Source: IRS.gov.



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Appendix VI

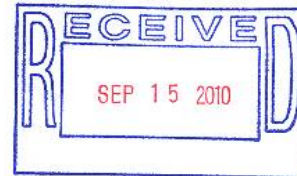
Management's Response to the Draft Report



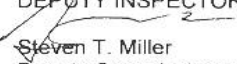
DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

September 14, 2010



MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: 
Steven T. Miller
Deputy Commissioner for Services and Enforcement

SUBJECT: Draft Audit Report – It Will Take Years to Implement the
Return Preparer Program and to Realize Its Impact
(Audit # 201040037)

Thank you for the opportunity to comment on the draft audit report concerning the implementation of the Return Preparer Program.

Your report accurately describes:

- The background of the return preparer review and recommendations for oversight of paid tax return preparers;
- The structure of the Project Office and supporting IRS resources that are dedicated to implementation activities and critical milestones;
- The significant undertaking and complexities in standing up the Preparer Tax Identification Number (PTIN) registration system and associated preparer requirements; and
- The development of the PTIN user fee that will fund the costs of implementation.

We also recognize the challenges identified in your report. As your report notes, we have only begun to address all the programmatic requirements for overall return preparer oversight. Please note that we have not yet issued final regulations in the areas of PTINs and Circular 230. Until the publication of final regulations, rules in this area should not be considered final. Therefore, your report may be inaccurate in certain respects. In particular, we suggest you modify the heading on Appendix IV to clarify that the responses may not reflect final decisions by the IRS.

Our first priority is to require all paid tax return preparers to possess a PTIN and to develop the system to make this possible. The IRS needs to obtain a better knowledge of the preparer population. With the PTIN as a unique single identifier, we can conduct significant research to further our efforts to structure a strong return preparer oversight program, to improve overall tax administration, and to shape our compliance and enforcement efforts. This research will detail preparer demographics accuracy of tax



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2

returns completed, potential needs for additional continuing education, and relates preparers to the types of taxpayers they serve. One of the next steps with the implementation is to further enhance the servicewide return preparer compliance strategy the IRS began last year.

We will take appropriate actions to address or further review issues as they are identified. We agree in part with the three recommendations and look forward to continued engagement by the Treasury Inspector General for Tax Administration in the next phase of the implementation.

Our specific comments to your recommendations are attached. If you have any questions, please contact me, or a member of your staff may contact David Williams, Director, Electronic Tax Administration and Refundable Credits, Wage and Investment Division, at (202) 622-7990.

Attachment



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Attachment

The Deputy Commissioner for Services and Enforcement should:

RECOMMENDATION 1

Provide sufficient resources to *****2(f)*****

*****.

CORRECTIVE ACTION

We partially agree with the recommendation *****2(f)*****

***** We will ask for additional documentation where discrepancies are found.

Based on our initial reviews, we will develop a strategy to address this going forward and adjust as appropriate. That strategy may involve requiring CPAs and attorneys to submit paperwork or it may identify another method for verification.

IMPLEMENTATION DATE

September 15, 2011

RESPONSIBLE OFFICIAL

Director, Electronic Tax Administration and Refundable Credits, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 2

*****2(f)*****

*****.

CORRECTIVE ACTION

*****2(f)*****
*****Beginning with the September 2010 implementation, or such time as the system comes available, we plan to verify internal IRS records for Date of Death.



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*****2(f)*****
*****Based on the results of our analysis, we
will take action to address this issue as appropriate.

IMPLEMENTATION DATE

September 15, 2011 for Date of Death reviews
September 15, 2012 for verification of U.S. citizenship or legal U.S. residence with authorization to work in the U.S.

RESPONSIBLE OFFICIAL

Director, Electronic Tax Administration and Refundable Credits, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 3

Complete the study comparing the four preparer programs to (1) gain an understanding of the basis for the requirements and if they should apply to each program, (2) ensure consistencies in the requirements and suitability testing among the programs, and (3) identify any overlaps, including user fees, among the programs

CORRECTIVE ACTION

We agree with this recommendation. Our future plans are to review all of these existing programs and to leverage existing best practices when appropriate. We are currently evaluating the e-File processes and making adjustments to be applied when the PTIN system is operational.

We are also establishing a cross-functional team to review the current processes for conducting background checks. The purpose of the team is to establish an efficient and consistent process to use across all programs. We have also begun work with the Chief Financial Officer and the Office of Professional Responsibility to reduce the user fees for the Enrolled Agent program to offset fees that are similar to the PTIN User Fee.

IMPLEMENTATION DATE

June 15, 2011

RESPONSIBLE OFFICIAL

Director, Electronic Tax Administration and Refundable Credits, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.