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BASIC RULES FOR COMMERCIAL TAX PREPARERS NEEDED TO CURB FRAUD, ABUSE, AND HARM TO CONSUMERS

Consumer advocates file brief supporting validity of IRS regulations for paid preparers

Washington, D.C. – Without fundamental regulations to protect them, taxpayers are subject to serious harm at the hands of unscrupulous or incompetent commercial tax preparers – people who handle their most sensitive financial information, according to two consumer advocacy groups.

The National Consumer Law Center (NCLC) and National Community Tax Coalition (NCTC) detailed their arguments in an *amicus curiae* brief filed April 5 in the U.S. Court of Appeals for the District of Columbia Circuit. The “friend of the court” brief was written in support of an Internal Revenue Service (IRS) appeal of a lower court decision in January, striking-down the paid-preparer rules.

“Without such regulation, consumers are at the mercy of an industry with no minimum training or competency standards for one of the most critical financial transactions that consumers engage in every year,” according to the *amicus* brief. “... (C)onsumers may become the victims of incompetence or fraud by preparers through no fault of their own, yet taxpayers are ultimately responsible for wrongly prepared tax returns.”

“In many states, even hairdressers are subject to greater professional regulation than are paid tax preparers,” said Jackie Lynn Coleman, executive director of the National Community Tax Coalition. She countered some paid preparers’ arguments that compliance with the regulations was too expensive; in fact, registration with the IRS cost less than \$65 and a competency exam cost less than \$120, compared with the hundreds of dollars in fees that a preparer can charge a single client.

Particularly at risk are low- and moderate-income working families who turn to paid preparers for help completing and filing their tax forms, often paying hundreds of dollars in fees – and sometimes falling victim to refund theft or other fraudulent schemes by unscrupulous preparers. The *amicus* brief cites numerous examples of such abuses, as well as many instances of preparers who simply didn’t know how to properly complete tax forms – or who provided clients with filing advice that was highly questionable, at best.

The IRS' paid-preparer rules were designed to help curb such problems and establish better quality controls. The requirements – which the IRS had been phasing-in since 2009 – include registration of paid preparers, mandatory training, a competency exam, certification and continuing education to ensure preparers remain versed in the details of ever-changing tax laws.

“It is certainly not too much to ask that commercial preparers demonstrate their competency to perform these critical functions for taxpayers,” said National Consumer Law Center staff attorney Chi Chi Wu, noting that’s especially so in the case of “fringe” preparers: businesses that often have been associated with the exploitation of consumers, such as payday loan stores.

Several commercial preparers sued the IRS to stop the regulations. A judge for the U.S. District Court for the District of Columbia held that the IRS lacked the statutory authority to impose such standards, and enjoined the implementation of the rules. The IRS filed an appeal of that decision in late February.

Licensed professionals who provide paid tax preparation services – such as lawyers, certified public accountants, and enrolled agents – already operate under existing standards and rules. In addition, volunteers who provide free, community-based tax preparation assistance to low-income, working families long have faced vigorous training and certification requirements.

The NCLC-NCTC brief is available at tinyurl.com/paid-prep-amicus. The case is *Loving v. U.S.*, D.C. Circ., No. 13-5061.

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The National Community Tax Coalition is a national network of more than 2,400 members dedicated to strengthening economies, building communities, and improving lives through tax preparation help and asset-building activities that produce financial security, protect families, and promote economic justice – particularly with the help of Volunteer Income Tax Assistance. www.tax-coalition.org.

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. www.nclc.org.