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Contacts: Chi Chi Wu, cwu(at)nclc.org or Jan Kruse, jkruse(at)nclc.org;
617-542-8010

Report Documents How Lack of Regulation Results in Widespread Problems with Paid Tax Preparers; Urges States to Require Basic Standards

*Download the full National Consumer Law Center report and supporting materials at:
www.nclc.org/issues/riddled-returns.html*

(BOSTON) One of the most surprising aspects about paying taxes in the United States isn't about marginal rates, deductions, or loopholes – it's the lack of regulation for most tax preparers. Each year, tens of millions of consumers rely upon paid tax preparers to help them file accurate and compliant tax returns, yet the majority of these preparers are not subject to any minimum educational, training, competency, or other standards. A new report from the National Consumer Law Center (NCLC) documents how a lack of regulation has allowed incompetence and abuses by tax preparers to flourish. "All 50 states regulate hairdressers, but only four regulate tax preparers," stated Chi Chi Wu, staff attorney at the National Consumer Law Center (NCLC) and author of the report. "Yet an inaccurate tax return can cause a lot more harm than a bad haircut."

[Riddled Returns: How Errors and Fraud by Paid Tax Preparers Put Consumers at Risk and What States Can Do](#) analyzes years of mystery shopper testing by government agencies, consumer groups, and advocacy organizations, all of which found disturbingly high levels of incompetency and outright fraud, such as:

- Intentional omission of income;
- Falsifying information to make the taxpayer eligible for various credits and deductions, such as charitable deductions, job-related or business expenses, and the Earned Income Tax Credit (EITC); and
- Inability to accurately handle education-related items, such as grants and tuition credits;

This incompetence and fraud could expose consumers to the risk of audit by the Internal Revenue Service, or even criminal sanctions.

Also documented is the severe lack of transparency in tax preparation fees. Taxpayers, especially lower-income recipients of the EITC, sometimes end up paying \$300, \$500 or more in fees. Yet these and other taxpayers often cannot get information beforehand on how much tax preparation will cost them because many tax preparers claim they cannot give a quote or give inaccurate lowball estimates. "Tax preparation is one of the few businesses in this country where consumers can't get an accurate price quote before buying the service," stated David Rothstein, a contributor to the report and director of Resource Development & Public Affairs at NHS of Greater Cleveland. "The lack of transparency and disclosure is stunning. How can there be a competitive market if consumers can't comparison shop due to lack of price information?"

Government enforcement actions also provide evidence of widespread abuses by paid tax preparers. The latest example is a [decision issued in November 2013 by a federal judge](#) shutting down the nation's fourth largest tax preparation chain, Instant Tax Service, and permanently banning its owner from the business of tax preparation due to "an astonishing array of repeated fraudulent and deceptive conduct."

The report also makes the case that the problem is not limited to a few instances, but is endemic and widespread. "Law enforcement action alone is not enough to address the abuses," stated Wu. "Going after a few bad actors would ignore how lack of regulation permits fraud to flourish."

The NCLC report calls on states to regulate tax preparers to address preparer abuse and incompetency. The IRS attempted to address the problem in 2011 with regulations requiring tax preparers to register with the IRS and pass a competency exam. Yet, a federal court struck down these common-sense requirements as exceeding the IRS's statutory authority, and this decision was upheld on appeal.

Recommendations

To better protect consumers, state legislatures should require paid tax preparers to:

- Obtain a registration unless they fit into one of exceptions for the limited number of tax preparers already regulated, such as certified public accountants, enrolled agents, and lawyers.
- Pass a basic competency exam.
- Have 60 hours of initial education and 15 hours per year of continuing education.
- Provide a standardized disclosure of their fees.

Along with the report, NCLC is releasing a Model Individual Tax Preparer Act with specific language that states can use to implement these recommendations. It is based on the existing state laws of the three states that do regulate tax preparers (Maryland, Oregon and California), as well as the IRS regulations.

Related NCLC Materials

NCLC has worked for over a decade on the issue of tax-time financial products, particularly refund anticipation loans (RALs). NCLC's annual RAL reports and other materials are available at www.nclc.org/issues/refund-anticipation-loans.html

[Model Individual Tax Preparer Regulation Act](#) (November 2013)

Mystery Shopper Reports from [2008](#), [2010](#), and [2011](#)

Other Materials

[Improving Tax Preparation with a Model Fee Disclosure Box](#) by David Rothstein (June 2013)

First Nations Development Institute Mystery Shopper Reports from [2011](#) and [2012](#)

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