



April 18, 2018

Re: H.R. 5444, Taxpayer First Act

Dear Representative:

The undersigned consumer groups write to you about H.R. 5444, the Taxpayer First Act. This is a bill that contains many provisions that we support. However, we are writing to make you aware that there is one provision we strongly oppose – Section 202, which would prohibit the IRS from offering its own free tax preparation and filing system that could save billions of dollars for American taxpayers.

Of the provisions that we favor, Section 305 of H.R. 5444 is the most critical and beneficial to low-income taxpayers. Section 305 establishes an income threshold for referral of a taxpayer's case to private debt collectors, which would be set at 250 percent of a poverty level selected by the Treasury Department. Section 305 will protect vulnerable low-income taxpayers from being pressured by private debt collectors to skip other bills, such as rent or prescriptions, to make payments that they cannot afford – a situation that is unfortunately occurring all too often right now. According to the National Taxpayer Advocate, 45% of taxpayers who agreed to make payments after being contacted by private collectors have incomes less than "allowable living expenses," a measure used by the IRS to estimate the amount needed for housing, utilities, transportation, food, and other necessities. In other words, private collectors have pressured low-income taxpayers to agree to payment plans that will leave them without sufficient funds to pay for rent, heat, and food. Section 305 of H.R. 5444 will prevent more financially strapped taxpayers from being bullied into such agreements.

Other provisions we support include, but are not limited to, Section 203 which exempts low-income taxpayers from paying user fees when submitting an offer-in-compromise and Section 201, which requires the IRS to establish a written comprehensive customer service strategy. In general, the bill has many positive provisions.

There is one provision, however, about which we have serious concerns – Section 202, which ostensibly codifies the IRS Free File Program. While the Free File program itself can benefit taxpayers, the language in Section 202 would also prevent the IRS from developing its own free

options for tax preparation and filing by mandating that the IRS work with the private sector in such efforts. For example, paragraph (b) of Section 202 requires the IRS to “work with the private sector through the IRS Free File Program to identify and implement, consistent with applicable law, innovative new program features to improve and simplify the taxpayer’s experience with completing and filing individual income tax returns through voluntary compliance.”

In other words, Section 202 mandates that the IRS use commercial tax preparers and software companies whenever it develops new programs for tax filing. This requirement would prohibit the IRS from developing its own tax preparation and filing software program, a program that would be free and would not involve commercial entities. Section 202 would also prevent development of a "return free filing" system that would permit the IRS to issue pre-prepared tax returns to consumers with simple returns who voluntarily select this option.

Section 202 of H.R. 5444 would have the effect of permanently entrenching commercial preparation and commercial software at the expense of American taxpayers. Currently, millions of taxpayers who are not eligible for Free File or cannot self-prepare using Free File pay billions in tax preparation fees. Our mystery shopper testing has revealed that commercial tax preparation can be very expensive, often with fees up to \$500 for taxpayers, including the hard-working families that receive the Earned Income Tax Credit.<sup>1</sup> As a group of prominent law professors and economists once noted “The United States has one of the most confusing and expensive tax filing systems of any nation. Americans spend billions of dollars a year in preparation fees.”<sup>2</sup> Section 202 of H.R. 5444 would prevent IRS from developing its own programs to help reduce some of those fees.

If you have any questions about this letter, please contact Chi Chi Wu at [cwu@nclc.org](mailto:cwu@nclc.org) or 617-542-8010.

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)  
Consumer Action  
U.S. PIRG

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<sup>1</sup> See Chi Chi Wu, Alice Vickers, Amelia O’Rourke-Owens, Peter Skillern, and Cara Williams, National Consumer Law Center, Florida Alliance for Consumer Protection, Reinvestment Partners, *Prepared in Error: Mystery Shoppers in Florida and North Carolina Uncover Serious Tax Preparer Problems* (Apr. 2015), available at <https://www.nclc.org/issues/prepared-in-error.html>; Chi Chi Wu, National Consumer Law Center, *Riddled Returns: How Errors and Fraud by Paid Tax Preparers Put Consumers at Risk and What States Can Do* (November 2013), available at <http://www.nclc.org/issues/riddled-returns.html>.

<sup>2</sup> Letter from 54 Law Professors and Economists in Support of the Tax Filing Simplification Act of 2016, April 18, 2016.