



Committee On Finance

Max Baucus, Ranking Member

NEWS RELEASE

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Baucus and Grassley Release Staff Draft of the Registration of Income Tax Return Preparer Proposal

Today, the Senate Finance Committee released a staff draft of the registration of income tax return preparer proposal included in the Tax Administration Good Government Act, H.R. 1528 [as passed by the Senate on May 19, 2004]. The House companion bill to the Tax Administration Good Government Act was passed June 19, 2003. Differences between the two bills have yet to be reconciled. The Senate Finance Committee received comments on the original provision. The staff draft is released to inform interested parties of the current staff position on the provision and to solicit additional comments. A copy of the statutory language can be found on both Senator Grassley's and Senator Baucus' press release page.

The following is an explanation of the staff draft:

SENATE FINANCE COMMITTEE STAFF DISCUSSION DRAFT OF REGISTRATION OF INCOME TAX PREPARER PROPOSAL

(sec. 141 of hr 1528 as passed by the Senate May 19, 2004 and new sec. 7530 of the Internal Revenue Code)

October 1, 2004

Present Law

The Secretary of the Treasury is authorized to regulate the practice of representatives of persons before the Department of the Treasury (31 U.S.C. 330). The Secretary is also authorized to suspend or disbar from practice before the Department a representative who is incompetent, who is disreputable, who violates the rules regulating practice before the Department, or who (with intent to defraud) willfully and knowingly misleads or threatens the person being represented (or a person who may be represented). The rules promulgated by the Secretary pursuant to this provision are contained in Circular 230. In general, the preparation and filing of

tax returns (absent further involvement) has not been considered within the scope of these Circular 230 provisions.

Federal income tax return preparers as included in HR 1528 as passed by the Senate

The provision required the annual registration of Federal income tax return preparers with the IRS. The provision provided that any person who was paid to prepare five or more returns in a year was required to register, except that the provision did not apply to a qualified representative (whether or not an attorney) who is authorized to practice before the IRS or an applicable court. Preparers were required to pass an annual examination and meet standards of conduct in order to register. The IRS was authorized to charge reasonable fees to defray the costs of administering this program. The provision imposed penalties for non-compliance with the provision. The provision required the Secretary to conduct a public awareness campaign and to maintain a public list of registered preparers. The provision permitted the Secretary to use any funds specifically appropriated for earned income credit compliance to improve compliance with the provision. The provision was effective on the date of enactment.

Payroll Providers and Refund anticipation loan providers

Section 141 of HR 1528 as passed by the Senate included provisions to regulate payroll providers and refund anticipation loan providers. Revised statutory language for these provisions will be distributed for public comment at a later date.

Staff Revised Regulation of Preparer Proposal

The Senate Finance Committee staff draft revises the registration of income tax return preparer as follows:

The revised proposal provides that the Secretary of the Treasury shall issue regulations no later than three years after the date of enactment requiring the registration of income tax return preparers as generally defined in section 7701(a)(36). However, preparers authorized to practice before the IRS that are subject to oversight under present law are excluded from the registration requirements.

The Secretary is required to minimize the burden and cost on those subject to the registration requirement to the extent feasible. Thus, the Secretary is authorized to define the scope of the registration requirement in a manner that accomplishes this goal. For example, the regulations may limit the registration requirement to income tax return preparers who prepare a minimum number of returns or based on other factors the Secretary deems appropriate.

To qualify for registration, income tax return preparers are required to pass an initial examination that tests an applicant's technical knowledge to prepare Federal tax returns, knowledge of ethical standards, and compliance with the earned income tax credit. The

Secretary is also authorized to contract for both the development and administration of the examination.

The staff draft proposes that income tax return preparers subject to the registration requirement shall be required to renew their registration every three years in a manner set forth by the Secretary in regulations. As part of the renewal process, registrants are required to establish completion of continuing education requirements set forth in regulations. Income tax return preparers are also subject to the rules of conduct that govern any federally authorized tax practitioner within the meaning of section 7525(a)(3)(A).

The proposal requires the payment of reasonable fees for registration and renewal as detailed in regulations. The fees paid for registration and renewal shall be available to the Secretary for the purpose of reimbursing the costs of administering and enforcing the registration requirement provisions.

The proposal provides for the imposition of a \$500 penalty for each tax return prepared by any person subject to the registration requirements who is not registered. In addition, the proposal increases the penalties on income tax return preparers who fail to sign a return or fail to provide an identifying number on a return from \$50 to \$500 per return. The Secretary is authorized to use amounts received from the imposition of penalties under section 6694 and 6695 for the costs of administering the registration program. The staff draft also authorizes the Secretary to use funds designated for earned income tax credit compliance to improve and expand the registration program and general enforcement of income tax return preparers.

The staff draft provides that the Secretary shall conduct a public awareness campaign to inform the public of the importance of choosing a competent income tax return preparer and of the registration requirements imposed on certain income tax return preparers and the general requirement that such preparers must sign the return and provide their registration number on the return. The provision is effective on the date of enactment.