

Senators Wyden and Cardin

“Taxpayer Protection and Preparer Proficiency Act of 2019”

Section-by-Section

For decades, the IRS has set minimum competency standards for attorneys, CPAs, enrolled agents, and other individuals who practiced before the IRS under Treasury Department Circular No. 230. In 2011, the D.C. District Court (and the D.C. Circuit affirming on appeal) decided the IRS did not have the authority to enforce these standards against paid tax return preparers on the grounds that the IRS’ authority to regulate practitioners is insufficient to permit regulation of tax return preparers who do not practice or represent taxpayers before an office of the Treasury Department.

In the absence of minimum federal competency standards, tax preparers have no obligation to receive tax education or training, or demonstrate competency in tax return preparation. Therefore, the absence of such minimum standards leaves many taxpayers who rely on paid return preparers vulnerable.

This provision accomplishes the following:

- Restores the ability of Treasury and the IRS to set federal standards of tax practice for all paid return preparers.
- Requires that certain preparers meet the following minimum competency requirements:
 - Obtaining a preparer tax identification number (PTIN);
 - Satisfying any examination and annual continuing education requirements;
 - Completing a background check.
- Clarifies that Treasury has authority to:
 - Require preparers to provide PTINs on returns (but except persons preparing return under supervision of a preparer who signs the return)
 - Rescind PTINs if a preparer is shown to be incompetent or disreputable (subject to notice and an opportunity for a proceeding).
- Requires a GAO study on the sharing of information between the Treasury Department and State authorities regarding PTINs issued to paid return preparers and preparer minimum standards.