

House File 590 - Enrolled

House File 590

AN ACT

RELATING TO TAX RETURN PREPARERS, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 421.62 Inclusion of preparer tax identification number.

1. For purposes of this section, unless the context otherwise requires:

*a.* "Department" means the Iowa department of revenue.

*b.* "PTIN" means a preparer tax identification number, as defined in Internal Revenue Service Notice 2011-6.

*c.* (1) "Tax return preparer" means any individual who, for a fee or other consideration, prepares ten or more tax returns or claims for refund under chapter 422 during a calendar year, or who assumes final responsibility for completed work on such tax returns or claims for refund under chapter 422 on which preliminary work has been done by another individual.

(2) "Tax return preparer" does not include any of the following:

(a) An individual licensed as a certified public accountant or a licensed public accountant under chapter 542 or a similar law of another state.

(b) An individual admitted to practice law in this state or another state.

(c) An enrolled agent enrolled to practice before the federal internal revenue service pursuant to 31 C.F.R. §10.4.

(d) A fiduciary of an estate, trust, or individual, while functioning within the fiduciary's legal duty and authority with respect to that individual, or that estate or trust or its testator, trustor, grantor, or beneficiaries.

(e) An individual who prepares the tax returns of the individual's employer, while functioning within the individual's scope of employment with the employer.

(f) An individual employed by a local, state, or federal government agency, while functioning within the individual's scope of employment with the government agency.

(g) An employee of a person described in subparagraph (1), if the employee provides only clerical or other comparable services and does not sign tax returns.

*d. "Willful or reckless" means the same as "willful or reckless conduct" defined in section 6694(b)(2) of the Internal Revenue Code.*

2. *a.* On or after January 1, 2020, a tax return preparer is required to include the tax return preparer's PTIN on any tax return or claim for refund prepared by the tax return preparer and filed under chapter 422.

*b.* (1) A tax return preparer who violates paragraph "a" shall pay a civil penalty in the amount of fifty dollars for each violation unless the tax return preparer shows that the failure was reasonable under the circumstances and not willful or reckless conduct.

(2) The maximum aggregate penalty imposed upon a tax return preparer pursuant to this subsection shall not exceed twenty-five thousand dollars during any calendar year.

(3) The penalty shall be paid to the department.

3. The department shall draft relevant tax return forms to provide the space necessary for a tax return preparer to include a PTIN.

4. This section shall not be construed to limit the authority of the department to require any individual preparing a tax return to include the individual's PTIN.

Sec. 2. NEW SECTION. 421.63 Authority to enjoin certain tax return preparers.

1. For purposes of this section, unless the context otherwise requires:

a. "Department" means the Iowa department of revenue.

b. "State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

c. "Tax return preparer" means the same as defined in section 421.62.

d. "Unreasonable position" means the same as defined in section 6694(a)(2) of the Internal Revenue Code.

e. "Willful or reckless" means the same as "willful or reckless conduct" defined in section 6694(b)(2) of the Internal Revenue Code.

2. The director of the department may seek a temporary or permanent injunction from any court of competent jurisdiction to prevent a tax return preparer from engaging in further conduct described in subsection 3.

3. A tax return preparer may be temporarily or permanently enjoined from engaging in activity described in section 421.62, subsection 1, paragraph "c", if the court finds that a tax return preparer has continually engaged in the following conduct and that injunctive relief is necessary to prevent the recurrence of such conduct:

a. Preparation of any income tax return or claim for refund that includes an unreasonable position that understates the taxpayer's liability.

b. Preparation of any income tax return or claim for refund that includes a willful or reckless understatement of the taxpayer's liability.

c. Failure to do any of the following:

(1) Furnish a copy of an income tax return or claim for refund, when required.

(2) Sign the income tax return or claim for refund, when required.

(3) Furnish an identifying number, when required.

(4) Retain a copy of the income tax return, when required.

(5) Complete continuing education requirements as required pursuant to section 421.64.

(6) Use diligence in determining eligibility for tax benefits, when subject to due diligence requirements imposed by department rules.

*d.* Negotiating on behalf of a taxpayer the issuance of a check by the department, without the permission of the taxpayer.

*e.* Engaging in conduct subject to a criminal penalty under this chapter.

*f.* Misrepresenting the eligibility of the preparer to practice before the department or otherwise misrepresenting the experience or education of the preparer.

*g.* Guaranteeing the payment of any income tax refund or the allowance of any income tax credit.

*h.* Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws of this state.

4. The fact that the person has been enjoined from preparing tax returns or claims for refund for the United States or any other state, in the five years preceding the petition for an injunction, shall establish a prima facie case for an injunction to be issued pursuant to this section.

\* Sec. 3. NEW SECTION. 421.64 Tax return preparer — continuing education.

1. For purposes of this section, "tax return preparer" means the same as defined in section 421.61.

2. *a.* Beginning January 1, 2020, and every year thereafter, a tax return preparer shall complete a minimum of fifteen hours of continuing education courses on subject matters prescribed by the department of revenue, including two hours of continuing education on professional ethics. Each course shall be taken from an Internal Revenue Service approved provider of continuing education. A tax return preparer shall not engage in activity as such a preparer unless the preparer has completed, during the previous calendar year, a minimum of fifteen hours of continuing education courses prescribed by the department of revenue, including two hours of continuing education on professional ethics. For purposes of completing

continuing education pursuant to this section, a new tax preparer shall not be required to complete continuing education prior to the first year of preparing returns.

b. A tax return preparer is required to retain records of continuing education completion.

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LINDA UPMEYER  
Speaker of the House

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CHARLES SCHNEIDER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 590, Eighty-eighth General Assembly.

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CARMINE BOAL  
Chief Clerk of the House

Approved \_\_\_\_\_, 2019

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KIM REYNOLDS  
Governor