

## Taxpayer Protection Act – Proposed Bill Language

*Requires paid tax return preparers to sign and provide their identification number on tax returns filed with the revenue department. Authorizes the revenue department to penalize and seek to enjoin paid tax return preparers who engage in certain conduct.*

To enact [BILL NUMBER] relative to requirements for paid tax return preparers; requiring paid tax return preparers to sign tax returns and claims for refund and to provide identifying information; to provide for penalties; to provide for a maximum annual penalty; to authorize the secretary of revenue to bring suit to enjoin paid tax return preparers who engage in certain conduct; to provide a list of the conduct that may be enjoined; to authorize the enjoining of paid tax return preparers who repeatedly engage in prohibited conduct from preparing income tax returns for this state; to provide for definitions; to provide for an effective date; and to provide for related matters.

Be it enacted:

**Section 1.** [LAW] is hereby enacted to read as follows:

[LAW]. Paid tax return preparers; required information on income tax returns and claims for refund

A. For all taxable periods beginning on or after January 1, 2020, any income tax return or claim for refund prepared by a paid tax return preparer shall be signed by the paid tax return preparer and shall bear the paid tax return preparer's Internal Revenue Service preparer tax identification number. Any person who is the paid tax return preparer with respect to any tax return or claim for refund and who fails to sign the return or claim for refund, or who fails to provide his or her preparer tax identification number, shall pay a penalty of fifty dollars for each such failure, unless it can be shown that the failure was due to reasonable cause and not willful or reckless conduct. The penalty that may be imposed on any paid tax return preparer with respect to returns or claims for refund filed during any calendar year shall not exceed twenty-five thousand dollars per paid tax return preparer.

**Section 2.** [LAW] Suit to enjoin certain paid tax return preparers

A. In a court of competent jurisdiction, the secretary may commence suit to enjoin any paid tax return preparer from further engaging in any conduct described in Subsection B of this Section or from further action as a paid tax return preparer.

B. In any action under Subsection A of this Section, the court may enjoin the paid tax return preparer from further engaging in any conduct specified in this Subsection if the court finds that injunctive relief is appropriate to prevent the recurrence of this conduct. The court may enjoin conduct when a paid tax return preparer has done any of the following:

(1) Prepared any income tax return or claim for refund that includes an understatement of a taxpayer's liability due to an unreasonable position. For purposes of this Subsection, "unreasonable position" shall have the same meaning as provided by Section 6694(a)(2) of the Internal Revenue Code.

(2) Prepared any income tax return or claim for refund that includes an understatement of a taxpayer's liability due to the paid tax return preparer's willful or reckless conduct. For purposes of this Subsection, "willful or reckless conduct" shall have the same meaning as provided by Section 6694(b)(2) of the Internal Revenue Code.

(3) Where required, failed to furnish copy of the income tax return or claim for refund.

(4) Where required, failed to sign the income tax return or claim for refund.

(5) Where required, failed to furnish identifying number.

(6) Where required, failed to retain copy of the income tax return.

(7) Where required by due diligence requirements imposed by Department regulations, failed to be diligent in determining eligibility for tax benefits.

(8) Negotiated a check issued to a taxpayer by the Department of Revenue without the permission of the taxpayer.

(9) Engaged in any conduct subject to any criminal penalty provided in [THE STATE'S REVENUE/TAXATION TITLE].

(10) Misrepresented the paid tax return preparer's eligibility to practice before the Department of Revenue or otherwise misrepresented the paid tax return preparer's experience or education.

(11) Guaranteed the payment of any income tax refund or the allowance of any income tax credit.

(12) Engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws of the state of [STATE].

C. (1) If the court finds that a paid tax return preparer has continually or repeatedly engaged in any conduct described in Subsection B of this Section and that an injunction prohibiting the conduct would not be sufficient to prevent the person's interference with the proper administration of the tax laws of [STATE], the court may enjoin the person from acting as a paid tax return preparer in the state of [STATE].

(2) 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. For purposes of this Section, "state" shall mean a 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.

D. The director shall annually report on the Department's website a summary of the Department's enjoinder actions.

E. The term "paid tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any income tax return or claim for refund, required to be filed under this chapter. The preparation of a substantial portion of an income tax return or claim for refund shall be treated as if it were the preparation of the income tax return or claim for refund. "Paid tax return preparer" does not include anyone regulated under [STATE BOARD OF ACCOUNTANCY STATUTE].

**Section 3.** This Act shall become effective upon signature by the governor or [STATE RULES].