

Return Preparer Letter - Filing Season 2011

[\[http://www.irs.gov/businesses/small/article/0,,id=231826,00.html\]](http://www.irs.gov/businesses/small/article/0,,id=231826,00.html)

Note: The following is the text of a letter the IRS sent out to more than 10,000 tax return preparers nationwide to remind them of their obligation to prepare accurate tax returns on behalf of their clients.

Internal Revenue Service Department of the Treasury

Date: November 22, 2010

Dear

The Internal Revenue Service is taking steps to ensure tax return preparers are meeting their obligations with respect to the preparation of tax returns and claims for refund. We are sending this letter to a segment of the return preparer community to heighten awareness of preparer responsibilities and increased IRS oversight of tax return preparers.

We will be visiting a smaller segment of the return preparer community beginning in December to confirm these tax return preparers are complying with current return preparer requirements. If we select you for a visit, an IRS representative will contact you to schedule an appointment and to provide you with additional information about what you can expect during the visit.

It is important you are aware of your responsibilities as a tax return preparer, including new preparer tax identification number (PTIN) requirements that are effective for tax returns and claims for refund prepared after December 31, 2010. We, therefore, encourage you to review the enclosure, "Responsibilities of a Tax Return Preparer." If you need additional information, visit our website at www.irs.gov/taxpros.

Sincerely,
Monica L. Baker
Director, Examination
Small Business/Self-Employed Division

Enclosure:
[Responsibilities of a Tax Return Preparer - Filing Season 2011](#)

Note: The following is the text of an enclosure that was included in a letter to tax return preparers to remind them of their responsibilities and consequences of filing incorrect returns.

Tax return preparers are expected to be knowledgeable in tax law and to prepare accurate returns. As a tax return preparer, you must take all necessary steps to prepare accurate Federal tax returns on behalf of your clients. These steps include reviewing the applicable tax law to ensure all income has been reported on the return, and only credits, expenses and deductions allowed under the Internal Revenue Code are taken.

Tax return preparers are required to exercise due diligence in preparing or assisting in the preparation of tax returns and claims for refunds. As a general rule of thumb, that means knowing the underlying substantive law affecting an item of income or deduction. Additional responsibilities include the following:

- Preparers with primary responsibility for the overall substantive accuracy of the preparation of the return or claim for refund must sign the return or claim for refund.

- Preparers who sign the return/claim for refund must include their identifying number (PTINs for returns or claims for refund prepared after December 31, 2010) on the return or claim for refund.
- Preparers who sign the return or claim for refund must provide a copy of each return or claim for refund to the client.
- Preparers who sign the return or claim for refund must retain a completed copy of the return or claim for refund, or alternatively retain a record (by list, card file, electronically, or otherwise) of all the taxpayers, their taxpayer identification numbers, the taxable years, and the type of returns or claims for refund prepared.
- Preparers must make such copy or list available for inspection upon request by the IRS for a 3-year period following the close of the return period.

Consequences of Filing Incorrect Returns

The consequences of preparing inaccurate returns can be severe and can extend to both you and your client. These consequences may include any or all of the following:

- If your clients' returns are examined and found to be incorrect, your clients may be subject to accuracy-related or fraud penalties plus accrued interest on any underpayment.
- Return preparers who prepare a client return for which any part of an understatement of tax liability is due to an unreasonable position taken on the return based on the preparer's advice, can be assessed a minimum penalty of \$1,000 (IRC section 6694(a)).
- Return preparers who prepare a client return for which any part of an understatement of tax liability is due to the return preparer's willful, reckless or intentional disregard of rules or regulations by the tax preparer, can be assessed a minimum penalty of \$5,000 (IRC section 6694(b)).

The assessment of return-related penalties against a return preparer may result in:

- Assertion of applicable penalties;
- Suspension or expulsion of the return preparer's firm from participation in IRS e-file;
- Injunction barring the return preparer from preparing tax returns;
- Referral for criminal investigation; or
- Disciplinary action by the IRS Office of Professional Responsibility.

New Tax Return Preparer Requirements

New regulations require all paid tax return preparers (including attorneys, certified public accountants, enrolled agents, and others) to apply for a preparer tax identification number (PTIN) – even if you already have one – before preparing any federal tax returns in 2011.

To obtain or renew a PTIN, preparers need to register in a new online system located at www.IRS.gov/taxpros. Registration takes approximately 15 minutes and includes four steps: 1) Create an account, 2) Complete the online application, 3) Pay a \$64.25 fee, and 4) Obtain the PTIN.

Alternatively, preparers may submit a paper application on Form W-12, IRS Paid Preparer Tax Identification Number Application, along with payment of the fee. Paper applications take 4-6 weeks to process.

This is the first step in a series of efforts underway to increase oversight of federal tax return preparers. Additional information about the PTIN system and future proposals for testing and continuing education for certain preparers is available online at www.IRS.gov/taxpros.