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SPECIAL NOTICE

New Requirements for Income Tax Preparers and Facilitators of Refund Anticipation Loans or Checks

Introduction: The Connecticut General Assembly recently enacted certain requirements for any person that prepares federal or state personal income tax returns. See 2017 Conn. Pub. Acts 17-147, §§ 15-18. These requirements are phased in over time.

The first set of requirements goes into effect on **October 1, 2017**. A written disclosure requirement goes into effect on October 1, 2018. On and after January 1, 2019, all tax preparers must have a permit, unless specifically exempt from this requirement.

Persons Affected:

Tax preparers, which includes any person that prepares federal or state personal income tax returns for a fee or other consideration.

Facilitators, which includes any person that individually or with another person:

- Solicits the execution of, processes, receives, or accepts an application or agreement for a refund anticipation loan or refund anticipation check.
- Serves or collects upon a refund anticipation loan or refund anticipation check; **or**
- Facilitates, in any manner, the making of a refund anticipation loan or refund anticipation check.

The term *facilitator* does not include an employee of a facilitator who provides only clerical or support services.

Effective October 1, 2017

Requirements and Restrictions: The new state law provides professional practice standards for tax preparers and facilitators. There are no exemptions from these requirements and restrictions.

All Tax Preparers and Facilitators

As of October 1, 2017, anyone who prepares federal or Connecticut state income tax returns or acts as a facilitator for a Connecticut taxpayer is **required** to do the following:

1. Sign any return prepared by such person and provide his or her preparer identification number (PTIN) issued by the Internal Revenue Service;
2. Return to a taxpayer any documents (or copies of such documents) that were provided by the taxpayer;
3. Provide the taxpayer with a copy of any document requiring the taxpayer's signature; **and**
4. Maintain a copy of any return prepared for a taxpayer for a period of four years from the date of completion or the due date of the return, whichever is later.

In addition, anyone who prepares federal or Connecticut state income tax returns or acts as a facilitator for a Connecticut taxpayer is **prohibited** from doing the following:

1. Requiring or allowing a taxpayer to sign a blank or incomplete tax form;
2. Requiring a taxpayer to designate the tax preparer or a facilitator as the payee for a federal or Connecticut state personal income tax refund; **and**
3. Requiring a taxpayer to designate or use a specific depository institution, debit card, or stored value card provider for the purposes of receiving a federal or Connecticut state personal income tax refund.

Tax Preparers or Facilitators Affiliated with Refund Anticipation Loans or Checks

In addition to the above requirements applicable to all tax preparers and facilitators, the following actions are **prohibited** in connection with refund anticipation loans and refund anticipation checks:

1. Imposing any fee for making or facilitating a refund anticipation loan or refund anticipation check. The creditor or bank that originated the loan or check may charge a fee, but the preparer may not impose a fee or other consideration.
2. Arranging, directly or indirectly, for any third party to impose any interest, fee, or charge related to a refund anticipation loan or refund anticipation check, other than the creditor or bank that originated the loan or check.
3. Including any of the following provisions in any document related to a refund anticipation loan or refund anticipation check:
 - a. A hold harmless clause;
 - b. A confession of judgment clause;
 - c. An assignment of or order for payment of wages or other compensation for services;
 - d. A waiver of any provision in the federal or Connecticut Taxpayer Bill of Rights; **or**
 - e. A waiver of the right to injunctive, declaratory, other equitable relief, or relief on a class-wide basis.
4. Engaging in any unfair or deceptive acts or practices in making or facilitating a refund anticipation loan or refund anticipation check. This prohibition includes making any statement, written or verbal, that contradicts any information in the federal or Connecticut Taxpayer Bill of Rights.
5. Taking or arranging for a creditor to take a security interest in any property interest of the taxpayer other than the proceeds of the tax refund to secure payment of a refund anticipation loan.
6. Engaging in the collection of an outstanding or delinquent refund anticipation loan for any creditor or assignee.

Penalty for Violations: Any person who violates any of the above requirements is subject to a **civil penalty of not more than \$500 for each violation.**

Additional Definitions:

Refund anticipation loan means a loan that is secured by or that the creditor arranges to be repaid directly or indirectly from the proceeds of a federal or state personal income tax refund, and it includes any sale, assignment or purchase of such tax refund at a discount or for a fee, whether or not the amount is required to be repaid to the buyer or assignee if the Internal Revenue Service or the Department of Revenue Services denies or reduces the amount of the tax refund.

Refund anticipation check means a check, debit card, stored value card or other payment mechanism that:
(A) Represents the proceeds of a federal or state personal income tax refund; (B) is issued by a bank or other person that received a direct deposit of the tax refund or tax credits; and (C) is paid for by a fee or other consideration.

Effective October 1, 2018

Requirements: The state law also requires that a written disclosure be provided to the taxpayer by any tax preparer who is subject to the permit requirement described below.

All Non-Exempt Tax Preparers

As of October 1, 2018, any person who prepares federal or Connecticut state income tax returns for a Connecticut taxpayer and is not specifically exempt (see the list of exemptions on the next page) is **required** to provide a written disclosure to the taxpayer that includes the following information:

1. The tax preparer's name, principal business address, and primary telephone number;
2. An estimate of the **total charge** for completion of all requested tax preparation services; **and**
3. A warranty that the tax preparer shall, by encryption or other means, provide for the secure storage and transmission of the taxpayer's personal and tax record information.

As of January 1, 2019, the written disclosure must also include the Connecticut preparer registration number of the non-exempt tax preparer.

Permit Required January 1, 2019

Permit Requirement for Non-Exempt Tax Preparers and Facilitators: On **October 1, 2018**, DRS will begin registering tax preparers and facilitators electronically. All tax preparers who are

not exempt will be required to have a permit by **January 1, 2019**. Non-exempt tax preparers that are not registered in Connecticut will be prohibited from preparing federal or Connecticut state income tax returns. Additional information will be released next year about the registration process. The following information provides only the minimum requirements for an individual to receive a permit and which individuals will be exempt from these requirements.

In order to receive a permit, an individual must:

1. Be eighteen years of age, or older;
2. Have a high school diploma;
3. Have a preparer tax identification number issued by the Internal Revenue Service;
4. Present evidence that the individual has experience, education, or training in tax preparation services; **and**
5. Pay an initial application fee of \$100. The permit expires after two years. The renewal fee is \$50.

Permits may be issued to applicants providing evidence satisfactory to the Commissioner of authorization to act as a tax preparer in another state that has professional requirements substantially similar to Connecticut.

As of January 1, 2020, a certificate of completion of the annual filing season program administered by the Internal Revenue Service will be required in order to receive a permit.

Any person making a material misrepresentation of fact in obtaining or attempting to obtain a permit will be subject to a civil penalty of not more than \$500 for each violation.

Exempt Tax Preparers and Facilitators: The following persons will be exempt from the permit requirement:

- Accountants holding (A) an active license issued by the State Board of Accountancy, or (B) a valid and active permit, license or equivalent professional credential issued by another state or jurisdiction of the United States;
- Attorneys, and persons engaged in providing tax preparation services under the supervision of an attorney;
- Enrolled agents, as that term is used in Internal Revenue Service Circular 230;
- Employees of a local, state or federal governmental agency while engaged in the performance of official duties;

- Employees of or assistants to a person exempted under this subsection, in the performance of official duties for such tax preparer or exempt person;
- Individuals employed, full-time or part-time, to act as a tax preparer solely for the business purposes of such individual's employer;
- Fiduciaries acting on behalf of an estate; and
- Tax preparers qualified by the Internal Revenue Services, including, but not limited to, tax preparers sponsored by the Tax Counseling for the Elderly program and the Volunteer Income Tax Assistance program.

Effective Date: As stated above.

Statutory Authority: 2017 Conn. Pub. Acts 17-147, §§ 15-18.

Effect on Other Documents: None.

Effect of This Document: A Special Notice announces a new policy or practice in response to changes in state or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by the Department of Revenue Services (DRS).

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Visit the DRS website at www.ct.gov/DRS to download and print Connecticut tax forms and publications.

Paperless Filing/Payment Methods (fast, easy, free, and confidential): Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at www.ct.gov/TSC to file a variety of tax returns, update account information, and make payments online.

File Electronically: You can choose first-time filer information and filing assistance or log directly into the **TSC** to file returns and pay taxes.

Pay Electronically: You can pay taxes for tax returns that cannot be filed through the *TSC*. Log in and select the *Make Payment Only* option. Choose a payment date up to the due date of the tax and mail a paper return to complete the filing process.

DRS E-alerts Email Service: Get connected to the latest DRS news including new legislation, policies, press releases, and more. Visit the DRS website at www.ct.gov/DRS and select *Sign up for e-alerts* under *How Do I?* on the gold navigation bar.

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