

SECURE TAXATION

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Is your tax-return info for sale?

Business interests and consumer advocates weigh in on proposed IRS regulations.

By Jeanne Sahadi, CNNMoney.com senior writer

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WASHINGTON (CNNMoney.com) - In proposing changes to the rules governing how and when tax preparers may seek permission to use a client's tax-return information for non-tax purposes, the IRS tried to strengthen privacy protections while acknowledging the interests of the tax-preparation industry.

At a public hearing in Washington, D.C. on Tuesday, both consumer advocates and the industry highlighted their concerns, addressing two main proposals.

The first pertains to the consent form taxpayers must sign before a tax preparer is permitted to share their tax return information with a third party. Among the proposed changes, the agency specifies that the forms' font size not be confused with fine print, and that the forms be explicit in telling the consumer why consent is being sought (e.g. to market mortgage products to the taxpayer) and to whom it will be given (e.g., a bank).

The forms also must include a warning that the tax preparer isn't responsible for how the information is used by third parties.

The IRS also proposes requiring tax preparers to seek consent before outsourcing the preparation of their tax returns abroad, which is the case for more than 1 million taxpayers, said Steven K. Ladd, CEO of accounting software developer Copanion, in testimony at the hearing.

Tax preparers say rules go too far

The tax preparation industry thought the IRS proposed changes were too sweeping. For instance, is your name on a tax-software product registration form -- presumably fair game for marketing lists -- actually part of tax-return information?

"We believe that the regulations must provide assured protection of actual 'tax return information' but should not overreach," said Barbara Lawler, chief privacy officer of Intuit, in her testimony.

H&R Block chief compliance officer Murray Walton, meanwhile, thought the proposed changes to the consent forms were too prescriptive, and that the language of the warning was "alarming" when it should be neutral. "We think some of the uses we make of taxpayer information are very constructive," said Walton.

But consumer advocates at the hearing contended the consent forms were simply another form for unsuspecting taxpayers to sign. They also objected to the proposed lifting of the "affiliated" restriction that to date has limited use of tax-return information for marketing non-tax-related products (e.g. IRAs) -- tax

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preparers could only market such products if they were products of the tax preparer or one of its affiliates.

The IRS proposed changes would lift that "affiliated" restriction, meaning tax preparers -- with your consent -- could share or sell your tax return information with any company for the purpose of marketing products to you.

The lifting of the affiliated restriction, an IRS attorney explained to CNNMoney.com, is partly an effort to level the playing field between the H&R Blocks, which have affiliates, and the small tax preparation firms and Big 4 accounting firms, neither of which technically can have affiliates as part of their corporate structure.

Consumer groups warn that lifting the affiliated restriction will put consumers at greater risk of identity theft, deceptive marketing and coercion.

But more broadly, they strongly oppose the sharing of tax information for anything other than tax return preparation.

To preserve the trust that should exist not only between taxpayers and tax preparers, but between citizens and the IRS, "the rule really should prohibit any kind of disclosure unnecessary to tax preparation," said Richard Blumenthal, the attorney general of Connecticut. "It's not as if Americans are clamoring for their financial information to be disclosed." Nor, he added, has he heard any outcries about a dearth of marketing opportunities.

In a conversation with CNNMoney.com in advance of the hearing, an IRS attorney noted that only lawmakers can change the statute so that it bars tax preparers from sharing tax return information, and that the current statute governing such matters assumes there will be use and disclosure of that information.

Blumenthal said that short of barring use for marketing purposes, the consent forms should be more, not less, proscriptive. "Consent is simply a fig leaf for marketing," he said, noting that only a small percentage of consumers elect not to disclose financial information when given the option, despite the fact that a majority say their financial information is sensitive.

And, he added, if a taxpayer consents to have his tax return information disclosed, the disclosure should be limited to a specific purpose and only for that purpose. In other words, he's calling on the IRS to impose restrictions on how the way third parties may use that tax return information. ■

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