

[H.R. 2702](#) and [S. 1209](#), Tax Refund Protection Act (118th Congress)

- Modifies 31 USC 330 as shown below.
- Clarifies §6713 on authority to impose civil and criminal penalties for improper disclosures by return preparers.
- Regulates refund anticipation payment instruments; adds new IRC provisions:
 - §7813, Disclosure Requirements for Tax Return Preparers
 - §6720D, Failure to Meet Disclosure Requirements for Tax Return Preparers
- [1-page summary from Congresswoman Bonamici](#)
- [4/19/23 press release from Senator Booker](#)
 - Concerns about “predatory preparers” who skim refund money, overcharge or worse.
 - “The legislation would direct the Department of the Treasury to establish necessary licensing, fees, and certification of tax preparers. It would also require tax preparers to provide taxpayers with a disclosure statement outlining the fees they will charge for preparing a tax return, direct taxpayers to where they can find information about when they can expect to receive their refunds, and disclose potential additional fees associated with a refund anticipation check.” [[proposed new IRC §7813](#)]

31 USC § 330 - Practice before the department [and tax return preparers](#)

(a) Subject to section 500 of title 5, the Secretary of the Treasury may—

(1) regulate the practice of representatives of persons before the Department of the Treasury [through licensure](#); ~~and~~

(2) [certify the practice of tax return preparers](#); and

(3) before admitting a representative [or a tax return preparer](#) to practice, require that the representative [or tax return preparer](#) demonstrate—

(A) good character;

(B) good reputation;

- (C) necessary qualifications to enable the representative or tax return preparer to provide to persons valuable service; and
- (D) competency to advise and assist persons in presenting their cases or in preparing tax returns, claims for refund or other submissions related to the Internal Revenue Code of 1986 or other laws or regulations administered by the Internal Revenue Service.
- (b) Any enrolled agents properly licensed to practice as required under rules promulgated under subsection (a) shall be allowed to use the credentials or designation of “enrolled agent”, “EA”, or “E.A.”.
- (c)(1) After notice and opportunity for a proceeding, the Secretary may, with respect to a representative or tax return preparer who is described in paragraph (2)
- (A) suspend or disbar from practice before the Department, ~~or censure,~~ a representative; ~~who—~~
- (B) decertify a tax return preparer; or
- (C) censure a representative or tax return preparer.
- (2) A representative or tax return preparer is described in this paragraph if the representative or tax return preparer—
- (1A) is incompetent;
- (2B) is disreputable;
- (3C) violates regulations prescribed under this section; or
- (D4) with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.
- (c) The Secretary may impose a monetary penalty on any representative described in ~~the preceding sentence~~paragraph (2). If the representative or tax return preparer was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension of the representative, the decertification of the tax return

preparer, ~~disbarment~~, or censure of the representative or the tax return preparer.

(d) After notice and opportunity for a hearing to any appraiser, the Secretary may—

(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

(2) bar such appraiser from presenting evidence or testimony in any such proceeding.

(e) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

(f)(1) The Secretary of the Treasury may impose fees on tax return preparers necessary to implement such programs as required by subsection (a).

(2) In addition to paragraph (1), the Commissioner of Internal Revenue may impose an annual fee necessary for any competency testing and training required for licensure and certification under this section.

(3) Nothing in this section may be construed to limit the authority of the Commissioner of Internal Revenue to issue orders and establish fees related to the other purposes, including the issuing of Preparer Tax Identification Numbers.

(g) For purposes of this section—

(1) the term ‘tax return preparer’ has the meaning given such term by section 7701(a)(36) of the Internal Revenue Code of 1986;

(2) the term ‘tax return’ has the meaning given to the term ‘return’ under section 6696(e)(1) of such Code; and

(3) the term ‘claim for refund’ has the meaning given such term under section 6696(e)(2) of such Code.