



August 1, 2018

Senator Rob Portman  
448 Russell Senate Office Building  
Washington, DC 20510

Senator Ben Cardin  
509 Hart Senate Office Building  
Washington, DC 20510

Re: Protecting Taxpayers Act (S. 3278)

Dear Senators Portman and Cardin:

The American Institute of CPAs (AICPA) commends you for introducing the bi-partisan tax administration bill “Protecting Taxpayers Act” (S. 3278) (hereinafter referred to as “the Bill”). We appreciate your efforts to ensure a service-oriented, modernized tax administration system that earns the respect and appreciation of both taxpayers and their advisers.

On behalf of our members, the AICPA would like to express its support for Section 202, Regulation of Tax Return Preparers, which will help to promote good tax administration and protect the interests of the American taxpayer by protecting taxpayers from incompetent and unscrupulous preparers. The Bill authorizes the Internal Revenue Service (IRS) to sanction tax return preparers and specifically notes their ability to revoke preparer tax identification numbers (PTINs). This authority will ensure minimum competency and ethical standards similar to what was required under the Registered Tax Return Preparer (RTRP) Program<sup>1</sup> and allow the agency to act swiftly and efficiently to stop preparers from continuing to file inaccurate and fraudulent tax returns.

At the same time, the Bill protects the rights of tax advisors, for example, by requiring notice and an opportunity for a hearing prior to rescinding a preparer’s PTIN. This due process protection is essential. The Bill also provides appropriate exceptions from the competency provisions for attorneys, certified public accountants (CPA), enrolled agents and individuals supervised by these professionals. We appreciate that you recognize the inherent regulatory regime within which CPAs and other legacy Circular 230 practitioners already practice, as well as the fact that CPA firms must stand, as a matter of licensure, behind the work done by the members and employees of their firms.

One area where additional taxpayer protections are necessary relates to reducing marketplace confusion. The IRS does not endorse any tax preparer. However, there are instances where unlicensed tax preparers use misleading marketing tactics implying they are endorsed by the

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<sup>1</sup> The Registered Tax Return Preparer Program, which was created by the IRS, required basic Form 1040 competency testing, 15 hours of annual continuing education, limited practice rights, compliance and background checks, and compliance with the ethical standards of Circular 230. In 2013, the decision in *Loving v. IRS* overturned the RTRP Program.

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agency. As a result, some taxpayers are confused by the different qualifications of tax preparers and the varying practice rights they possess. We therefore recommend that the Bill subject unlicensed tax return preparers to the guidance in IRS Notice 2011-45, 2011-25 IRB 886, which aims to mitigate marketplace confusion and ensure truth in advertising.

AICPA has been a steadfast supporter of the goals of enhancing compliance and elevating ethical conduct. Ensuring that tax preparers are competent and ethical is critical to maintaining taxpayer confidence in our tax system. Indeed, these goals are consistent with AICPA's own Code of Professional Conduct and enforceable tax ethical standards.

The AICPA is the world's largest member association representing the accounting profession with more than 431,000 members in 137 countries and territories, and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

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We appreciate your consideration of our recommendations and welcome the opportunity to further discuss our comments. If you have any questions, please contact me at (408) 924-3508 or [annette.nellen@sjsu.edu](mailto:annette.nellen@sjsu.edu); Melissa Labant, Director – AICPA Tax Policy & Advocacy, at (202) 434-9234, or [melissa.labant@aicpa-cima.com](mailto:melissa.labant@aicpa-cima.com); or Lakecia Foster, Director – AICPA Congressional & Political Affairs, at (202) 434-9208, or [lakecia.foster@aicpa-cima.com](mailto:lakecia.foster@aicpa-cima.com)

Sincerely,



Annette Nellen, CPA, CGMA, Esq.  
Chair, AICPA Tax Executive Committee

cc: Members of Senate Finance Committee