



SPONSOR: Rep. Paradee & Sen. Walsh
Reps. Bolden, Brady, Hensley, Hudson, Keeley, Wilson;
Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 426

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter I, Chapter 5, of Title 30 of the Delaware Code by making deletions as shown by
2 strike through, insertions as shown by underline and redesignating as follows:

3 § 502 Definitions.

4 (b) Specific definitions. — Whenever used in this title, the following terms shall have the meanings ascribed to
5 them in this subsection:

6 () “Paid tax preparer” means any person who prepares for compensation, or who employs one or more
7 persons to prepare for compensation, any tax return, or a substantial portion of any tax return or claim for refund under
8 this Title. “Paid tax preparer” does not include anyone regulated under Chapter 1 of Title 24.

9 Section 2. Amend Subchapter III, Chapter 5, of Title 30 of the Delaware Code by making deletions as shown by
10 strike through, insertions as shown by underline and redesignating as follows:

11 § 548 Paid tax preparers; required information on returns and claims for refund.

12 (a) Any tax return or claim for refund prepared by a paid tax preparer, as that term is defined under § 502(b) in this
13 Title, shall be signed by the tax preparer and shall bear the tax preparer’s social security number, preparer tax identification
14 number, or federal employer identification number.

15 (b) Any person who is a paid tax preparer with respect to any tax return or claim for refund who fails to sign the
16 return or claim for refund and to provide identification, sufficient for the Department to be able to identify the person who
17 prepared the return or claim for refund, shall pay a civil penalty of \$50 for each such failure, unless it can be shown that the
18 failure was due to reasonable cause. The secretary shall have the authority to impose such penalty. The penalty imposed on
19 any paid tax preparer with respect to returns or claims for refund filed during any calendar year shall not exceed \$25,000. A
20 civil penalty claim may be filed in any court of competent jurisdiction. Any civil penalties collected under this section are
21 hereby appropriated to the Department to carry out the purposes of this Section.

22 § 549 Suit to enjoin certain paid tax preparers.

23 (a) In a court of competent jurisdiction, the secretary may commence suit to enjoin any paid tax preparer, as that
24 term is defined under § 502(b) of this title, from further engaging in any conduct described in subsection (b) of this section
25 or from further acting as a paid tax preparer.

26 (b) In any action under subsection (a) of this section, the court may enjoin the tax preparer from further engaging
27 in any conduct specified in this subsection (b) if the court finds that injunctive relief is appropriate to prevent the recurrence
28 of this conduct. The court may issue an injunction when the paid tax preparer has done any of the following:

29 (1) Prepared any return or claim for refund that includes an understatement of a taxpayer's liability due to an
30 unreasonable position. For purposes of this section, "unreasonable position" has the same meaning as provided in
31 Section 6694 of the Internal Revenue Code.

32 (2) Prepared any return or claim for refund that includes an understatement of a taxpayer's liability due to
33 willful or reckless conduct. For purposes of this section, "willful or reckless conduct" has the same meaning as
34 provided in Section 6694 of the Internal Revenue Code.

35 (3) Where required, do any of the following:

36 a. failed to furnish a copy of a return or claim for refund.

37 b. failed to sign a return or claim for refund.

38 c. failed to furnish an identifying number.

39 d. failed to retain a copy of records.

40 e. failed to file correct information returns.

41 f. failed to be diligent in determining eligibility for tax benefits.

42 (4) Negotiated a check issued to a taxpayer by the Department without the permission of the taxpayer.

43 (5) Engaged in any conduct subject to any criminal penalty provided in this Title.

44 (6) Misrepresented the paid tax preparer's eligibility to practice before the Department or otherwise
45 misrepresented the paid tax preparer's experience or education.

46 (7) Guaranteed the payment of any tax refund or the allowance of any tax credit.

47 (8) Engaged in any other fraudulent or deceptive conduct that substantially interferes with the property
48 administration of the tax laws of this state.

49 (c) If the court finds that a paid tax preparer has continually or repeatedly engaged in any conduct prohibited in
50 subsection (b) of this section and that an injunction prohibiting the conduct would not be sufficient to prevent the person's
51 interference with the proper administration of the tax laws of Delaware, the court may enjoin the person from acting as a
52 paid tax preparer in Delaware. The fact that a person has been enjoined from preparing tax returns or claims for refund for

53 the United States or any other state, in the five years preceding the petition for an injunction shall establish a prima facie
54 case for an injunction to be issued pursuant to this Section. For purposes of section, "state shall mean a state of the United
55 States, the District of Columbia, Puerto Rico, The United States Virgin Islands, or any territory or insular possession
56 subject to the jurisdiction of the United States.

57 Section 3. This Act shall be effective upon enactment.

SYNOPSIS

This Act requires paid tax preparers to sign any tax return or refund they file and be subject to a \$50 civil penalty for any violation with a maximum penalty of \$25,000 in any calendar year. The Act also permits a court of competent jurisdiction to enjoin any paid tax preparer from understating a tax payer's liability or taking an unreasonable position. The Act also permits a court to enjoin a paid tax preparer from, where required, failing to furnish a copy of a return or claim for refund, failing to sign a return or claim for refund, failing to furnish an identifying number, failing to retain a copy of the return, failing to be diligent or failing to correct information. The Act also permits an injunction if the paid tax preparer negotiates a check without permission, engages in any criminal conduct, guarantees payment of any specific tax refund amount, or engages in any other fraudulent or deceptive conduct.