

REVENUE DIVISION OF DEPARTMENT OF TREASURY (EXCERPT)
Act 122 of 1941

205.4a Taxpayer protection act; paid tax preparers; prohibitions; injunctions; definitions.

Sec. 4a.

(1) Beginning January 1, 2021, any return or claim for refund filed pursuant to part 1 of the income tax act of 1967 PA 281, MCL 206.1 to 206.532, and prepared by a paid tax preparer shall be signed by the paid tax preparer and shall bear the paid tax preparer's tax identification number.

(2) In addition to any other penalty provided by law, any person who is a paid tax preparer with respect to any return or claim for refund who fails to sign that return or claim for refund filed pursuant to part 1 of the income tax act of 1967 PA 281, MCL 206.1 to 206.532, and to provide their preparer tax identification number as required by this section shall pay a civil penalty of \$50.00 for each failure, unless it can be shown that the failure was due to reasonable cause as determined by the department. The civil penalty imposed on any paid tax preparer with respect to returns or claims for refund filed during any calendar year shall not exceed \$25,000.00. The department may use an amount equal to the total penalties collected under this section to regulate paid tax preparers.

(3) A paid tax preparer shall not knowingly do any of the following:

(a) Prepare any return or claim for refund that includes an understatement of a taxpayer's liability due to an unreasonable position.

(b) Prepare any return or claim for refund that includes an understatement of a taxpayer's liability due to willful or reckless conduct.

(c) Where required, do any of the following:

(i) Fail to furnish a copy of a return or claim for refund.

(ii) Fail to sign a return or claim for refund.

(iii) Fail to furnish an identifying number.

(iv) Fail to retain accurate and complete records, workpapers, and other documents necessary for the proper determination of tax liability.

(v) Fail to determine eligibility for tax benefits.

(d) Negotiate a warrant, draft, or check issued by the department or receive a refund or credit by electronic payment into the paid tax preparer's account without the actual knowledge of the taxpayer.

(e) Engage in any conduct subject to any criminal penalty provided in this act.

(f) Misrepresent the paid tax preparer's eligibility to practice before the department or otherwise misrepresent the paid tax preparer's experience or education.

(g) Guarantee the payment of any tax refund or the allowance of any tax credit.

(h) Engage in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws of this state.

(4) In a court of competent jurisdiction, the department may commence suit to enjoin any paid tax preparer from further engaging in any conduct described in subsection (3) or from further acting as a paid tax preparer. If the court issues an injunction under this section, the paid tax preparer shall reimburse the department for all costs and fees incurred in prosecuting the case.

(5) If the court finds that a paid tax preparer has continually or repeatedly engaged in any conduct prohibited in subsection (3) and that an injunction prohibiting the conduct would not be sufficient to prevent the person's interference with the proper administration of part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the court may enjoin the person from acting as a paid tax preparer in this state. The fact that a person has been enjoined from preparing tax returns or claims for refund for the United States or any other state, in the 5 years preceding the petition for an injunction, shall establish a prima facie case for an injunction to be issued pursuant to this section.

(6) In addition to the requirements under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, for the 2021 tax year and each tax year after 2021, the department shall post on the department's website and include in the instruction booklet that accompanies the annual return both of the following:

(a) A clear and concise statement informing the taxpayer that the taxpayer protection act requires a paid tax preparer to sign a return and provide his or her preparer tax identification number.

(b) Contact information for the department's fraud unit.

(7) This section shall be known and may be cited as the "taxpayer protection act".

(8) As used in this section:

(a) "Paid tax preparer" means any person who prepares for compensation, or who employs 1 or more persons to prepare for compensation, any return or claim for refund, or a substantial portion of any return or claim for refund under part 1 of the income tax act of 1967 PA 281, MCL 206.1 to 206.532. However, a paid tax preparer does not include any of the following:

(i) An individual who is licensed as a certified public accountant under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

(ii) An individual whose principal place of business is not in this state and who satisfies the requirements set forth in section 727a of the occupational code, 1980 PA 299, MCL 339.727a.

(iii) An individual who is employed by a firm that is licensed under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736, or exempt from licensure under section 728(4) or (5) of the occupational code, 1980 PA 299, MCL 339.728, and who prepares a return under the supervision of an individual described in subparagraph (i) or (ii).

(iv) An individual who prepares a return as a volunteer through a nonprofit organization or other organization offering tax assistance.

(b) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

History: Add. 2020, Act 77, Imd. Eff. Apr. 2, 2020

Popular Name: Revenue Act