

Statement of Nina E. Olson, National Taxpayer Advocate

As the IRS moves forward in the wake of the *Loving* decision, it's important to remember why I began recommending the enactment of preparer standards in 2002, why the Senate Finance Committee approved them on a bipartisan basis in 2004 and again in 2006, why the IRS chose to implement preparer standards beginning in 2010, and why practitioner groups generally supported them. The rationale for preparer standards from my perspective is simple – to protect taxpayers.

Nearly 150 million individual taxpayers file returns every year, and well over half use return preparers. Yet there are currently no standards for hanging out a shingle and preparing returns, and there is considerable evidence that many preparers either lack the knowledge and ability to prepare accurate tax returns or seek to exploit taxpayers. The GAO, TIGTA and others have conducted undercover “shopping visits” and consistently found that a significant majority of returns are prepared incorrectly – with some prepared returns requiring taxpayers to pay more tax than they owe and other prepared returns substantially understating tax, costing the government revenue and potentially subjecting the taxpayer-clients to audits and tax assessments, including penalties and interest charges.

I believe an effective program of preparer standards must contain four components: (1) registration to promote accountability; (2) a one-time “entrance” examination to ensure basic competency in return preparation; (3) continuing education to ensure preparers keep up to date with the many frequent tax-law changes; and (4) a taxpayer education campaign to help guide taxpayers to Circular 230 practitioners or preparers who have satisfied the competency examination and continuing education requirements.

Because the mandatory Registered Tax Return Preparer (RTRP) program the court invalidated in *Loving* had been thoroughly vetted and generally accepted by key stakeholders, I have recommended that Congress pass legislation to authorize the IRS to reinstate that program.

In the interim, I have recommended that the IRS adopt a voluntary program that hews closely to the structure of the RTRP program. The voluntary program announced today is a step in the right direction. I am concerned, however, that it does not require preparers to pass a competency test in order to be listed in the IRS database. In my view, individuals who cannot pass a minimum competency test should not be preparing tax returns. And if the IRS includes names of preparers in a searchable database, some taxpayers will erroneously assume those listed have been determined by the IRS to meet basic competency standards.

I recognize that the IRS is trying to do what's feasible for the 2015 filing season, and it's too late in the year to offer a voluntary competency test before January. I note the IRS has said it will “assess the feasibility of administering a uniform voluntary examination in future years in order to ensure basic return preparer competency.” I urge the IRS to make that happen.