



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5527

by Rep. Natalie A. Manley

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/503

from Ch. 120, par. 5-503

Creates the State Tax Preparer Oversight Act. Provides that, for taxable years beginning on or after January 1, 2017, the Department of Revenue shall require any income tax return preparer to include his or her PTIN on any tax return prepared by the income tax return preparer and filed under the Illinois Income Tax Act or any claim for refund of tax imposed by the Illinois Income Tax Act. Provides that the Department shall develop a program using the PTIN as an oversight mechanism to assess returns, to identify high error rates, patterns of suspected fraud, and unsubstantiated basis for tax positions by income tax return preparers. Provides that the Department may bar or suspend a income tax return preparer for good cause. Contains provisions concerning penalties and enforcement. Amends the Illinois Income Tax Act to make conforming changes.

LRB099 16232 HLH 40562 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the State
5 Tax Preparer Oversight Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of Revenue.

8 "Income tax return preparer" has the meaning ascribed to
9 that term in Section 1501 of the Illinois Income Tax Act.

10 "PTIN" means a Preparer Tax Identification Number, as
11 defined in Internal Revenue Service Notice 2011-6.

12 Section 10. Powers and duties of the Department.

13 (a) For taxable years beginning on or after January 1,
14 2017, the Department shall, by rule, require any income tax
15 return preparer, as defined in Section 1501 of the Illinois
16 Income Tax Act, to include his or her PTIN on any tax return
17 prepared by the income tax return preparer and filed under the
18 Illinois Income Tax Act or any claim for refund of tax imposed
19 by the Illinois Income Tax Act.

20 (b) The Department shall develop and by rule implement a
21 program using the PTIN as an oversight mechanism to assess
22 returns, to identify high error rates, patterns of suspected

1 fraud, and unsubstantiated basis for tax positions by income
2 tax return preparers.

3 (c) The Department shall, by rule, establish formal and
4 regular communication protocols with the Commissioner of the
5 Internal Revenue Service to share and exchange PTIN information
6 on income tax return preparers who are suspected of fraud,
7 disciplined, or barred from filing tax returns with the
8 Department or the Internal Revenue Service. The Department may,
9 by rule, establish additional communication protocols with
10 other states to exchange similar enforcement or discipline
11 information.

12 Section 15. Enforcement.

13 (a) The Department may investigate the actions of any
14 income tax return preparer doing business in the State and may
15 bar or suspend an income tax return preparer from filing
16 returns with the Department for good cause.

17 (b) In addition to any other penalty provided by law, any
18 individual or person violating this Act shall pay a civil
19 penalty to the Department in an amount not to exceed \$25,000
20 for each offense as determined by the Department.

21 (c) The Department shall, before taking any disciplinary
22 action against an income tax return preparer under this
23 Section, hold a hearing in accordance with this Act. The
24 Department shall, at least 30 days before the date set for the
25 hearing, (i) notify the accused in writing of the charges made

1 and the time and place for the hearing on the charges, (ii)
2 direct him or her to file a written answer to the charges with
3 the Department under oath within 20 days after the service on
4 him or her of the notice, and (iii) inform the accused that, if
5 he or she fails to answer, disciplinary action shall be taken
6 against him or her, as the Department may consider proper.

7 (d) At the time and place fixed in the notice, the
8 Department shall proceed to hear the charges and the parties or
9 their counsel shall be accorded ample opportunity to present
10 any pertinent statements, testimony, evidence, and arguments.
11 The Department may continue the hearing from time to time.

12 (e) In case the person, after receiving the notice, fails
13 to file an answer, he or she may be subject to the disciplinary
14 action set forth in the notice. The written notice may be
15 served by registered or certified mail to the person's address
16 of record.

17 (f) All final administrative decisions of the Department
18 under this Section shall be subject to judicial review pursuant
19 to the provisions of the Administrative Review Law. The term
20 "administrative decision" is defined as in Section 3-101 of the
21 Code of Civil Procedure. Proceedings for judicial review shall
22 be commenced in the Circuit Court of the county in which the
23 party applying for review resides; provided, that if such party
24 is not a resident of this State, the venue shall be in Sangamon
25 or Cook County.

26 (g) The Department shall not be required to certify any

1 record to the court or file any answer in court or otherwise
2 appear in any court in a judicial review proceeding, unless and
3 until the Department has received from the plaintiff payment of
4 the costs of furnishing and certifying the record, which costs
5 shall be established by the Department. Exhibits shall be
6 certified without cost. Failure on the part of the plaintiff to
7 file such receipt in court shall be grounds for dismissal of
8 the action.

9 Section 20. Rules. The Department shall adopt rules
10 consistent with the provisions of this Act for the
11 administration and enforcement of this Act.

12 Section 85. The Illinois Income Tax Act is amended by
13 changing Section 503 as follows:

14 (35 ILCS 5/503) (from Ch. 120, par. 5-503)

15 Sec. 503. Signing of Returns and Notices.

16 (a) Signature presumed authentic. The fact that an
17 individual's name is signed to a return or notice shall be
18 prima facie evidence for all purposes that such document was
19 actually signed by such individual. If a return is prepared by
20 an income tax return preparer for a taxpayer, that preparer
21 shall sign the return as the preparer of that return and
22 include his or her PTIN, as defined in the State Tax Preparer
23 Oversight Act, on the return. If a return is transmitted to the

1 Department electronically, the Department may presume that the
2 electronic return originator has obtained and is transmitting a
3 valid signature document pursuant to the rules promulgated by
4 the Department for the electronic filing of tax returns, or the
5 Department may authorize electronic return originators to
6 maintain the signature documents and associated documentation,
7 subject to the Department's right of inspection at any time
8 without notice, rather than transmitting those documents to the
9 Department, and the Department may process the return.

10 (b) Corporations. A return or notice required of a
11 corporation shall be signed by the president, vice-president,
12 treasurer or any other officer duly authorized so to act or, in
13 the case of a limited liability company, by a manager or
14 member. In the case of a return or notice made for a
15 corporation by a fiduciary pursuant to the provisions of
16 section 502(b) (4), such fiduciary shall sign such document.
17 The fact that an individual's name is signed to a return or
18 notice shall be prima facie evidence that such individual is
19 authorized to sign such document on behalf of the corporation.

20 (c) Partnerships. A return or notice of a partnership shall
21 be signed by any one of the partners or, in the case of a
22 limited liability company, by a manager or member. The fact
23 that a partner's name is signed to a return or notice shall be
24 prima facie evidence that such individual is authorized to sign
25 such document on behalf of the partnership or limited liability
26 company.

1 (d) Joint fiduciaries. A return or notice signed by one of
2 two or more joint fiduciaries will comply with the requirements
3 of this Act. The fact that a fiduciary's name is signed to such
4 document shall be prima facie evidence that such fiduciary is
5 authorized to sign such document on behalf of the person from
6 whom it is required.

7 (e) Failure to sign a return. If a taxpayer fails to sign a
8 return within 30 days after proper notice and demand for
9 signature by the Department, the return shall be considered
10 valid and any amount shown to be due on the return shall be
11 deemed assessed. Any overpayment of tax shown on the face of an
12 unsigned return shall be considered forfeited if after notice
13 and demand for signature by the Department the taxpayer fails
14 to provide a signature and 3 years have passed from the date
15 the return was filed. An overpayment of tax refunded to a
16 taxpayer whose return was filed electronically shall be
17 considered an erroneous refund under Section 912 of this Act
18 if, after proper notice and demand by the Department, the
19 taxpayer fails to provide a required signature document. A
20 notice and demand for signature in the case of a return
21 reflecting an overpayment may be made by first class mail. This
22 subsection (e) shall apply to all returns filed pursuant to the
23 Illinois Income Tax Act since 1969.

24 (Source: P.A. 88-480; 88-672, eff. 12-14-94; 89-379, eff.
25 1-1-96; 89-399, eff. 8-20-95; 89-626, eff. 8-9-96.)