

STATEMENT OF FRANK DEGEN, EA
On behalf of
THE NATIONAL ASSOCIATION OF ENROLLED AGENTS

Panel Discussion on
Increased Oversight for Tax Return Preparer Community
and Increased Taxpayer Compliance

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My name is Frank Degen. I am an enrolled agent speaking on behalf of the National Association of Enrolled Agents (NAEA). NAEA represents the interests of more than 40,000 enrolled agents and is the only organization focused solely on EAs.

Today's topic is both welcome and timely. To everything there is a season and this, enrolled agents believe, is the season for providing greater oversight of tax return preparers. The facts and figures are well-told, but boil down to this:

- The portion of the tax gap attributed to reporting noncompliance is \$285 billionⁱ.
- In the twenty-odd years since our last major tax reform, the tax code has become horrendously complex.
- Roughly 60 million returns are completed by paid preparersⁱⁱ.

Enrolled agents have first-hand knowledge of too many Americans ill-served by charlatan preparers; preparers unwilling or unable to interpret the increasingly convoluted tax code, preparers contributing to this nation's staggering tax gap. NAEA has been pushing for vigorous oversight of all return preparers long before most in this room—save the National Taxpayer Advocate—thought it either important or possible. While we are not wedded to a legislative solution, we have urged federal tax law writers to craft fair yet strong legislative proposalsⁱⁱⁱ.

Why has NAEA spent so much blood and treasure on return preparer oversight? It is certainly not to put competitors out of business. Candidly, between the Code's increasing complexity and the Service's stepped up compliance efforts, there is more than enough business to go around. We are driven by the fundamental truth that Americans who pay a "professional" ought to get a professional return. We believe to meet that end federal policymakers should provide national standards for all paid return preparers.

To be blunt, it is the Wild West out there right now, and we need to bring the sheriff back to town. EAs believe that in order to be successful, any return preparer program must significantly increase taxpayer access to competent and ethical tax preparation services.

More practically, we suggest three pillars for any new oversight program:

1. **Competency:** Taxpayers would have a reasonable expectation of competency if preparers are subject to initial testing, continuing education, background checks, and strong ethical standards. This is not a new idea; both Representative Becerra and Senator Bingaman have introduced bills in prior Congresses embracing this concept. The only basis for grandfathering (if any) of unenrolled preparers is passage of a competency test that the Treasury Department deemed comparable. The absence of an initial competency test could place taxpayers in a worse position than currently exists, as taxpayers will assume a preparer holding a federal license has at least demonstrated minimal competence^{iv}.
2. **Centralization:** Any program should build on the existing regulatory framework and consolidate administration and enforcement under the Office of Professional Responsibility. Why construct a parallel regulatory framework and enforcement entity for different groups of paid preparers? Centralization would create a variety of benefits: one ethics code; coordinated exams that would allow for advancement within the

profession; and standardized continuing education requirements all administered under the already existing system.

We strongly oppose the establishment of a separate IRS division to provide oversight to some but not all preparers or any type of quasi-governmental entity to oversee the newly regulated. Consolidation within the agency should ensure uniformity of standards and enforcement for all return preparers and necessary privacy for taxpayer information.

3. **Adequate resources:** The most pragmatic element for any program is adequate resources for administration, promotion and enforcement^v. It is not unreasonable or unusual for professionals to pay for their licenses—attorneys pay for their licenses, certified public accountants pay for theirs, and EAs pay for theirs, too. OPR should retain all registration fees for administration of the program, including policing all practitioners and preparers under their jurisdiction.

Given the newness of the program, IRS must also be charged with raising awareness amongst the general public. Taxpayers must understand the importance of paying only licensed individuals for tax preparation as well as the requirement for paid preparers to sign returns.^{vi}

NAEA commends Commissioner Shulman for giving this issue such prominence. If we succeed in providing strong, common sense national return preparer oversight, we will protect taxpayers, elevate the profession, and level the playing field for those currently subject to Circular 230. These are good goals. These are laudable goals. These are achievable goals. Let us work together towards them.

ⁱ *Update on Reducing the Federal Tax Gap and Improving Voluntary Compliance*, United States Department of Treasury, July 8, 2009

ⁱⁱ IRS Statistics of Income 2008 Filing Season Statistics (Cumulative through the weeks ending Dec. 28, 2007 and Dec. 31, 2008) ; IRS SOI 2009 Filing Season Statistics (Cumulative through the week ending April 27, 2009)[PY = processing year]

Individual Income Tax Returns	PY 2007	PY 2008	PY 2009
Total Receipts	140,188,000	156,297,000	131,543,000
Total Processed	140,023,000	156,053,000	117,014,000
E-filing Receipts:			
TOTAL	79,979,000	89,886,000	90,639,000
Tax Professionals	57,420,000	62,959,000	59,439,000
Self-prepared	22,559,000	26,927,000	31,200,000

ⁱⁱⁱ During Congressional testimony, I offered up the oft-quoted: “if you need to go to a licensed barber to get your haircut...” This statement is no less true today than it was four years ago.

^{iv} As the Treasury Inspector General for Tax Administration has recently found in one of its studies of state regulatory efforts, a well constructed program, such as Oregon, can result in higher compliance rates, but a weak program without an initial competency exam can actually result in lower compliance than the national average.

^v Given the current budget environment, dollars should come from paid preparers, not from the fisc.

^{vi} ...and may require the taxpayer to make an attestation that a paid preparer was or was not used to prepare the taxpayer's return.

The **National Association of Enrolled Agents (NAEA)** is the professional society representing enrolled agents (EAs), which number some 46,000 nationwide. Its 12,000+ members are licensed by the U.S. Department of the Treasury to represent taxpayers before all administrative levels of the Internal Revenue Service (IRS), including examination, collection and appeals functions.

While the enrolled agent license was created in 1884 and has a long and storied past, today's EAs are the only tax professionals tested by IRS on their knowledge of tax law and regulations. They provide tax preparation, representation, tax planning and other financial services to millions of individual and business taxpayers. EAs adhere to a code of ethics and professional conduct and are required by IRS to take continuing professional education. Like attorneys and certified public accountants, enrolled agents are governed by Treasury Circular 230 in their practice before IRS.