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Proposal of amendments to the Procedural Regulations and Personal Income Tax Regulations to implement certain of the recommendations of the Task Force on Regulation of Tax Return Preparers. 20 NYCRR section 158.12 and Part 2600.

On behalf of the more than 29,000 members of the New York State Society of Certified Public Accountants, (NYSSCPA) we would like to express our support for the latest proposed amendments to the Personal Income Tax Regulations and the Procedural Regulations as it improves the quality of tax returns and protects consumers. Through our numerous tax-based committees, the NYSSCPA regularly works with state and federal bodies to enhance standards and strengthen laws that work to achieve those same goals.

Additionally, we continue to support the exemption of Certified Public Accountants (CPAs), Enrolled Agents and Attorneys from these regulations as stated in current law. Professional organizations such as the NYSSCPA and the American Institute of Certified Public Accountants provide ethical guidelines its members must adhere by. Moreover, CPAs are already held to high professional and regulatory standards through established state law as administered by the New York State Education Department's Office of the Professions. Therefore, exclusion of CPAs from the definition of tax return preparer found in these regulations continues to be correct policy and the statutory exemption in paragraph (a)(14) of Section 32 of the Tax Law should continue to be respected.

The NYSSCPA does appreciate the efforts to enact stricter regulations on previously unregulated tax return preparers as it raises the professional bar and protects consumers from fraudulent activity by those who were not previously bound by regulation or by any professional set of ethics. We have outlined below some areas of the proposal we feel warrant further clarification to not only improve the standards, but to clearly identify their purpose.

Section 2600– 1.1 (b): As mentioned above, the New York State Education Department is already tasked with disciplining CPAs licensed in New York State. Absent further clarification, it is difficult to determine what disciplinary referrals the Department of Taxation and Finance would make for CPAs who prepare tax returns. This is further complicated by the use of what we feel are broad descriptions of unprofessional conduct noted in the next item.

Section 2600 - 2.1 (e) and (f): We believe that the terms of “fraud,” “deceit,” “dishonest,” and “unscrupulous” are too broad in terms of identifying activity and require further clarification if they are to be made the basis to deny someone registration. Additionally, we feel that the terms described in (e) and (f) are duplicative and could perhaps be dealt with under one subsection heading.

Section 2600-4.3 (2) (e): We feel this section is too broad with respect to providing guidance on unacceptable fees. The sheer number of facts and circumstances that are involved in the setting of fees warrants clear standards. Furthermore, the state already has an agency set up to handle such issues in its New York Division of Consumer Protection (NYDCP). If the intent is to work in conjunction with NYDCP, such clarification would be welcome.

Thank you for taking the time to consider this letter and the comments herein. If the NYSSCPA can be of any further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads "J. Michael Kirkland". The signature is written in a cursive, flowing style.

J. Michael Kirkland, CPA

President

New York State Society of Certified Public Accountants