

# HOUSE BILL NO. 2227

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BERRY.

6094H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 143, RSMo, by adding thereto one new section relating to the taxpayer protection act, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 143, RSMo, is amended by adding thereto one new section, to be  
2 known as section 143.865, to read as follows:

**143.865. 1. This section shall be known and may be cited as the "Taxpayer  
2 Protection Act".**

**3 2. As used in this section, the following terms mean:**

**4 (1) "Department", the department of revenue;**

**5 (2) "Person", an individual, firm, proprietorship, association, corporation, or other  
6 entity;**

**7 (3) "Preparer tax identification number" or "PTIN", an identifying number of a  
8 tax preparer issued by the United States Internal Revenue Service under 26 U.S.C. Section  
9 6109;**

**10 (4) "Tax preparer", a person who prepares, or who employs another to prepare,  
11 a Missouri income tax return or claim for refund and does so for compensation. Preparing  
12 a substantial portion of a return or claim shall be treated as the preparation of such return  
13 or claim. "Tax preparer" shall not include any person who solely:**

**14 (a) Furnishes typing, reproducing, or other mechanical assistance;**

**15 (b) Prepares an income tax return or claim for refund for the employer for which  
16 the person is a regular and continuous employee or for an affiliate of that employer**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 including, but not limited to, an entity that is a partner of or in a partnership with the  
18 employer as described under 26 U.S.C. Sections 701 to 709;

19 (c) Prepares an income tax return or claim for refund for another person as a  
20 fiduciary; or

21 (d) Prepares a claim for refund for another person in response to a:

22 a. Notice of deficiency issued to such person; or

23 b. Waiver of restriction after the commencement of an audit of such person or of  
24 a third party if that audit would directly or indirectly affect the tax liability of such person.

25 3. No person shall act as a tax preparer unless such person's PTIN is provided on  
26 each Missouri income tax return or claim for refund the person prepares.

27 4. (1) The department shall implement procedures that:

28 (a) Use the PTIN as a tool to assess returns and correlate tax preparers with high  
29 error rates, patterns of suspected fraud, and unsubstantiated bases for tax positions; and

30 (b) Develop formal and regular communication protocols with the United State  
31 Internal Revenue Service to share and exchange information of tax preparers who are  
32 under suspicion of fraud, disciplined, or barred from preparing state or federal tax  
33 returns. The department may develop additional communication protocols with other  
34 states to exchange similar enforcement or discipline information.

35 5. The department may investigate the actions of any tax preparer filing a Missouri  
36 income tax return or claim for refund and may bar or suspend any tax preparer from  
37 acting as a tax preparer for good cause. A tax preparer shall have the right to appeal any  
38 such debarment or suspension.

39 6. In addition to any other penalty, any person who violates this section by omitting  
40 the person's PTIN on a submitted tax return or claim for refund shall be subject to a fine  
41 of fifty dollars per offense but not to exceed twenty-five thousand dollars per calendar  
42 year. However, no penalty shall be imposed if the department determines the omission is  
43 due to reasonable cause and not willful neglect.

44 7. The department may promulgate rules to implement the provisions of this  
45 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
46 created under the authority delegated in this section shall become effective only if it  
47 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
48 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers  
49 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
50 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
51 grant of rulemaking authority and any rule proposed or adopted after August 28, 2018,  
52 shall be invalid and void.

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