

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 118

100TH GENERAL ASSEMBLY

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Reported from the Committee on Small Business and Industry, March 7, 2019, with recommendation that the Senate Committee Substitute do pass.

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ADRIANE D. CROUSE, Secretary.

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## AN ACT

To amend chapter 143, RSMo, by adding thereto one new section relating to the protection of taxpayers utilizing certain tax preparers.

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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 known as section 143.980, to read as follows:

**143.980. 1. This section shall be known as the "Taxpayer Protection Act".**

**2. For the purposes of this section, the following terms shall mean:**

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

**(2) "Paid tax return preparer", a person who prepares for compensation, or who employs one or more persons to prepare for compensation, any income tax return or claim for refund required to be filed under this chapter. The preparation of a substantial portion of a return or claim for refund shall be treated as the preparation of such return or claim for refund. A paid tax return preparer shall not include any certified public accountant who holds an active license issued by any state and the employees of such certified public accountant or certified public accounting firm or an enrolled agent enrolled to practice before the federal Internal Revenue Service pursuant to 31 C.F.R. Section 10.4;**

**(3) "Willful or reckless conduct", the same meaning as defined under 26 U.S.C. Section 6694;**

**3. For all tax years beginning on or after January 1, 2020, any income tax return or claim for refund prepared by a paid tax return**

21 preparer shall be signed by the paid tax return preparer and shall bear  
22 the paid tax return preparer's Internal Revenue Service preparer tax  
23 identification number. Any person who is the paid tax return preparer  
24 with respect to any income tax return or claim for refund and who fails  
25 to sign the return or claim for refund, or who fails to provide his or her  
26 preparer tax identification number, shall pay a penalty of fifty dollars  
27 for each such failure, unless it can be shown that the failure was due  
28 to reasonable cause and not willful or reckless conduct. The aggregate  
29 penalty that may be imposed by the department on any paid tax return  
30 preparer with respect to returns or claims for refund filed during any  
31 calendar year shall not exceed twenty-five thousand dollars per paid  
32 tax return preparer.

33 4. (1) In a court of competent jurisdiction, the director of  
34 revenue may commence suit to enjoin any paid tax return preparer  
35 from further engaging in any conduct described in subdivision (2) of  
36 this subsection, or from further action as a paid tax return preparer.

37 (2) In any action under subdivision (1) of this subsection, if the  
38 court finds that injunctive relief is appropriate to prevent the  
39 recurrence of willful or reckless conduct, the court may enjoin the paid  
40 tax return preparer from further engaging in any conduct specified in  
41 the action. The court may enjoin conduct when a paid tax return  
42 preparer has done any of the following:

43 (a) Prepared any income tax return or claim for refund that  
44 includes an understatement of a taxpayer's liability due to an  
45 unreasonable position. For purposes of this subdivision, the term  
46 "unreasonable position" shall have the same meaning as defined under  
47 26 U.S.C. Section 6694;

48 (b) Prepared any income tax return or claim for refund that  
49 includes an understatement of a taxpayer's liability due to the paid tax  
50 return preparer's willful or reckless conduct;

51 (c) Where required, failed to sign an income tax return or claim  
52 for refund;

53 (d) Where required, failed to furnish his or her preparer tax  
54 identification number;

55 (e) Where required, failed to retain a copy of an income tax  
56 return;

57 (f) Where required by due diligence requirements imposed by

58 department rules and regulations, failed to be diligent in determining  
59 a taxpayer's eligibility for tax benefits;

60 (g) Negotiated a check issued to a taxpayer by the department  
61 without the permission of the taxpayer;

62 (h) Engaged in any conduct subject to any criminal penalty  
63 provided under chapters 135 to 155;

64 (i) Misrepresented to the department the paid tax return  
65 preparer's eligibility to practice or otherwise misrepresented the paid  
66 tax return preparer's experience or education;

67 (j) Guaranteed the payment of any income tax refund or the  
68 allowance of any income tax credit; or

69 (k) Engaged in any other fraudulent or deceptive conduct that  
70 substantially interferes with the proper administration of the laws of  
71 this state.

72 (3) (a) If the court finds that a paid tax return preparer has  
73 continually or repeatedly engaged in any conduct described in  
74 subdivision (2) of this subsection and that an injunction prohibiting the  
75 conduct would not be sufficient to prevent the paid tax return  
76 preparer's interference with the proper administration of the laws of  
77 this state, the court may enjoin the paid tax return preparer from  
78 acting as a paid tax return preparer in Missouri.

79 (b) Being enjoined from preparing tax returns or claims for  
80 refund for the United States or any other state in the five years  
81 preceding the petition for an injunction under this section shall  
82 establish a prima facie case for an injunction to be issued under this  
83 section. For purposes of this paragraph, the term "state" shall mean a  
84 state of the United States, the District of Columbia, Puerto Rico, United  
85 States Virgin Islands, or any territory or insular possession subject to  
86 the jurisdiction of the United States.

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