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City Council Document Tracking Sheet

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Sponsor(s): Emanuel, Rahm (Mayor)
Austin, Carrie M. (34)

Type: Ordinance

Title: Amendment of Title 4 of Municipal Code regarding tax preparers

Committee(s) Assignment: Committee on Budget and Government Operations

BUDG-



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

February 15, 2012

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Business Affairs and Consumer Protection, I transmit herewith, together with Alderman Austin, an ordinance amending Title 4 of the Municipal Code regarding tax preparers.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The Municipal Code of Chicago is hereby amended by adding a new Chapter 4-44 as follows:

Chapter 4-44. Income Tax Preparers.

Section 4-44-010. Definitions.

As used in this chapter, unless the context indicates otherwise:

“Assisted direct deposit” means a mechanism or agreement through which a consumer’s individual income tax refund is deposited in a bank account other than the consumer’s bank account, and then the remaining portion of the refund, minus fees, is deposited in the consumer’s own bank account.

“Commissioner” means the commissioner of the department of business affairs and consumer protection.

“Consumer” means a person for whom an individual income tax return is being prepared by a tax preparer.

“Department” means the department of business affairs and consumer protection.

“Refund anticipation check” means a check or other payment mechanism representing the proceeds of the consumer’s individual income tax refund which was issued by a depository institution or other person that received a direct deposit of the consumer’s individual income tax refund and for which the consumer must pay a fee or other consideration.

“Refund anticipation loan” means any loan a consumer may receive against his anticipated individual income tax refund.

“Refund settlement product” means assisted direct deposit, a refund anticipation check, a refund anticipation loan, or other similar mechanism, agreement, or transaction that allows a consumer to receive an advancement of money against an anticipated individual income tax refund from a person other than state or federal government, or allows another person to collect fees from the proceeds of the consumer’s individual income tax refund.

“Tax preparation services” means advice or assistance in the preparation of individual income tax returns.

“Tax preparer” means a person who, for a fee, provides or who holds himself out as providing tax preparation services. A “tax preparer” shall not include:

1. An attorney-at-law, and the employees of an attorney-at-law, who is a tax preparer;

2. A certified public accountant, and the employees of a certified public accountant, who is a tax preparer;

3. An officer or employee of a federal, state, or local governmental agency who provides tax preparation services in the scope of his employment; or

4. An administrator, conservator, guardian, executor, trustee, receiver or other representative appointed by the court who provides tax preparation services in the scope of that appointment.

Section 4-44-020. Consumer Bill of Rights Regarding Tax Preparation Services.

The department shall produce a document in English and Spanish known as a "Consumer Bill of Rights Regarding Tax Preparation Services." The document shall be written in plain language, published on the department's website, and shall contain the following information:

1. A detailed explanation of commonly offered tax preparation services;
2. A statement that a consumer has the right to file a complaint with the department concerning a tax preparer;
3. Information on how to file a complaint with the department concerning a tax preparer;
4. A statement that a consumer has the right to receive all of the information listed in Section 4-44-030 of this chapter from the tax preparer before the tax preparer renders any tax preparation services to the consumer;
5. A statement that a tax preparer, who individually or in conjunction with another, makes or offers to make a refund anticipation loan is required to make certain disclosures pursuant to Section 10 of the Tax Refund Anticipation Loan Disclosure Act, 815 ILCS 177/10; and
6. A statement that a consumer is not required to utilize a refund settlement product in order to receive tax preparation services from the tax preparer.

Section 4-44-030. Mandatory Disclosures.

(a) Prior to rendering any tax preparation services to a consumer, a tax preparer must provide the consumer with the following information, in writing:

1. A copy of the Consumer Bill of Rights Regarding Tax Preparation Services;
2. A Disclosure Form that contains the following information:
 - (A) A written list, description, and price of each tax preparation service offered by the tax preparer;
 - (B) A written list, description, and price of all miscellaneous fees associated with tax preparation services, including filing fees and processing fees;
 - (C) A written estimate of the total charge to the consumer based upon the tax preparation services the consumer has selected to purchase;

(D) A written estimate of the period of time the consumer can reasonably expect to wait for his tax refund; and

(E) A space for the consumer's initials indicating that the consumer has reviewed each disclosure and a signature line at the bottom for the consumer's signature indicating that the tax preparer has verbally reviewed all the required disclosures with the consumer.

(b) The Disclosure Form shall be approved by the department prior to any tax preparation services being rendered to any consumer.

(c) The tax preparer must verbally review each and every disclosure contained on the Disclosure Form with the consumer before the tax preparer renders any tax preparation services to the consumer. No tax preparation services shall be rendered to any consumer until the consumer has initialed and signed the Disclosure Form.

(d) The tax preparer must offer the consumer the choice between English and Spanish versions of the Disclosure Form and must verbally review each and every disclosure in English or Spanish as appropriate. If the consumer does not understand English or Spanish, the tax preparer must verbally review each and every disclosure in a language that is understood by the consumer, in which case a translator may be provided by the tax preparer or the consumer.

Section 4-44-040. Prohibited Activity.

No tax preparer shall require as a condition of offering or rendering tax preparation services to a consumer that the consumer utilize a refund settlement product.

Section 4-44-050. Joint and Several Liability.

Any person who employs or contracts with another person to provide tax preparation services as a tax preparer for a consumer shall be jointly and severally liable with the tax preparer for any violations of this chapter.

Section 4-44-060. Enforcement.

The department shall enforce this chapter. The commissioner is authorized to promulgate rules and regulations for the implementation of this chapter.

Section 4-44-070. Fines.

Any person who violates any provision of this chapter shall be fined not less than \$250 and not more than \$750 for each offense. Every day that a violation continues shall constitute a separate and distinct offense.

SECTION 2. This ordinance shall take effect upon passage and approval.