

Continuing Education Requirements for AFSP Tax Preparers

Special continuing education rules apply for individuals who become Annual Filing Season Program tax preparers for the 2015 tax filing season.

Those in the tax profession have likely received a recent flurry of e-mails advertising the need for IRS-approved continuing education for the new IRS Annual Filing Season Program (AFSP). If you rely on a quick read of those e-mails, however, it may not be clear who is subject to the new IRS AFSP and continuing education requirements. Better yet, if you follow the Internet links in some of these messages, you might end up on a “404 (Page Not Found Error)” Web page.

For those of us who have been following the ups and downs of the IRS's efforts since 2011 to establish the new category of practitioner, the Registered Tax Return Preparer (RTRP), it makes sense that there's some confusion in the system. With the 2015 filing season upon us, a review of Revenue Procedure 2014-42 (IRB 2014-29), the current IRS authority on the AFSP, issued June 30, 2014, should be helpful.

All tax professionals should be aware of the AFSP. The program is specifically designed to encourage unenrolled tax return preparers—in other words, those who aren't

attorneys, certified public accountants (CPAs), or enrolled agents (EAs)—to complete continuing education courses to increase their knowledge of federal tax law.

The AFSP is voluntary, so there's no requirement for a tax return preparer to participate in the program. But applicants who do want to participate must apply either online by using the Preparer Tax Identification Number (PTIN) application system or on paper by submitting IRS Form W-12 (IRS Paid Preparer Tax Identification Number (PTIN) Application and Renewal). The applications must be completed properly and submitted by April 15 of the year for which the Record of Completion is sought. Any applications after that date won't be considered. Attorneys, CPAs, EAs, enrolled actuaries, or enrolled retirement plan agents need not apply to represent taxpayers before the IRS.

The Record of Completion is effective for one calendar year. Once it's issued, it becomes effective for tax returns and claims for refund prepared and signed from January 1—or the issue date, if later—to December 31 of that year. For example, if a tax return preparer submits an application

on February 15, 2015, and the Record of Completion is issued on February 25, 2015, that preparer's 2015 Record of Completion will be effective for tax returns and claims for refund prepared and signed from February 25, 2015, through December 31, 2015.

Applicants for the AFSP must be eligible and obtain a PTIN for the year that the Record of Completion is sought. Unless the individual is considered “exempt” by having already passed the RTRP examination; is an attorney, CPA, or EA; or is a tax return preparer licensed or registered by an IRS approved state, territory, possession of the United States, a commonwealth, or the District of Columbia, the applicant must also successfully complete an annual federal tax filing season refresher course that generally covers tax law and filing requirements relevant to Form 1040 series returns and schedules administered by an IRS-approved continuing education provider. This course must be six hours, include a test with a minimum of 100 questions, and be passed with a 70% or higher passing score.

The amount of continuing education required also depends on whether or not the applicant has

Table 1. AFSP Continuing Education Requirements

AFSP Status	Filing Season	Refresher Course & Continuing Education Test Credits	Tax Law Update Continuing Education Credits	Federal Tax Law Continuing Education Credits	Ethics Continuing Education Credits	Total Continuing Education Credits
Nonexempt	2015	6		3	2	11
	2016+	6		10	2	18
Exempt	2015		3	3	2	8
	2016+		3	10	2	15

Source: IRS, "New! Annual Filing Season Program," August 26, 2014, www.irs.gov/Tax-Professionals/Annual-Filing-Season-Program.

taken and passed the RTRP examination. Those applicants required to take the tax refresher course (the nonexempts), must complete a total of 18 hours of continuing education during the calendar year prior to the year the Record of Completion is sought, which consists of the six-hour refresher course, 10 hours of federal tax law topics, and two hours of ethics or professional responsibility. Applicants exempt from taking the refresher course must complete a total of 15 hours of continuing education during the calendar year prior to the year that the Record of Completion is sought. In this case, the applicant need only take three hours of federal tax law updates instead of the six-hour tax refresher course. The 10 hours of federal tax law topics and two hours of ethics or professional responsibility are still required. The refresher course and the other continuing education requirements must be administered by continuing education providers defined in Section 10.9 of Circular 230 and approved by the IRS in accordance with the requirements of Revenue Procedure 2012-12 (IRB 2012-2).

As you may have noted, these requirements must be completed in the year prior to the year that

the Record of Completion is being sought, yet the AFSP was only introduced on June 30, 2014. For the 2015 filing season, there are transition rules in place to take the timing of the program's introduction into account. For all applicants, the federal tax law topics for the continuing education requirement is reduced to three hours instead of 10. Thus the continuing education requirements for the nonexempt and exempt applicants are 11 hours and eight hours, respectively, for the 2015 filing season and 18 hours and 15 hours for 2016 and thereafter filing seasons. Table 1 presents a summary of the program requirements.

Lastly, any applicant who participates in the AFSP and receives a Record of Completion must consent to be subject to the duties and restrictions relating to the practice before the IRS contained in Circular 230 for the entire period covered by the Record of Completion. The usual restrictions on eligibility include issues such as individuals who have been disbarred, suspended, or disqualified from practice before the IRS; convicted of certain felonies; engaged in certain misconduct; or aren't up to date with their own personal tax obligations.

The AFSP permits participants who aren't attorneys, CPAs, or EAs to represent taxpayers before the IRS during an examination of a tax return or claim of refund—but only if they prepared and signed the returns (or, if there's no signature space on the form, just prepared the return). In order to have this right to offer limited representation, the unenrolled tax return preparer must possess a valid AFSP Record of Completion in the year under examination by the IRS and for the year of the examination.

One final point should be noted here. As already mentioned, the unenrolled tax return preparers must have a valid AFSP Record of Completion for both the year (or years) being examined and for the year (or years) when the representation occurs. If representation is needed in a year that the preparer doesn't have a valid Record of Completion, then he or she is unable to represent the client. In addition, it seems reasonable that since unenrolled tax return preparers are limited to practice only before the IRS for the tax returns they signed or prepared, they are not able to represent their clients for other IRS issues, such as in the

continued on page 61

Taxes

continued from page 16

case of a fraudulent tax return filed by way of identity theft (obviously not prepared by any preparer that the taxpayer hired). At the moment, the program is voluntary, but the more interesting question is whether the United States Congress will get involved and provide legislation for tax preparers. **SF**

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