
TAX PREPARER CODE OF CONDUCT AND RESPONSIBILITIES

Tax Preparer Code of Conduct: It is the policy of CTEC to be sure CTEC Registered Tax Preparers (CRTPs) are aware of the Tax Preparer Code of Conduct and Responsibilities.

Background: In 1996 the California Legislature passed the Tax Preparers Act, Business & Professions Code 22250-22259, which regulates tax preparers. Those sections of the statute pertaining to tax preparer ethics, professional conduct, conduct regarding bonding and penalties for breaking the law are listed below.

A tax preparer is defined as “a person who, for a fee, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services.”

A tax return is defined as “a return, declaration, statement, refund claim, or other document required by making or filing in connection with state or federal income taxes or state bank and corporation franchise taxes.”

The statute exempts the following:

- An individual with a current valid license issued by the California Board of Accountancy (and his or her employees while functioning within the scope of his or her employment).
- An individual who is an active member of the State Bar of California (and his or her employees while functioning within the scope of his or her employment).
- Some employees of a trust company or business as defined in the statute, a financial institution and employees thereof who are regulated as defined in the statute.
- Enrolled Agents (and their employees while functioning within the scope of their employment).

CTEC Registered Tax Preparers (CRTPs):

- **Must** register as a tax preparer with the California Tax Education Council (CTEC).
- **Must** maintain a \$5,000 tax preparer bond issued by a surety bond company admitted to do business in California. A tax preparer shall provide to the surety bond company proof that he or she is at least 18 years of age before a bond can be issued.
- **Must** identify to the surety bond company all preparers employed or associated with the tax preparer securing the bond. Must file an amendment to the bond within 30 days of any change in the information provided in the bond.
- **Must** not conduct business without having a current surety bond in effect.
- **Must** cease doing business as a tax preparer upon cancellation or termination of bond until a new bond is obtained.
- **Must** furnish evidence of a current bond upon the request of any state or federal agency or law enforcement agency.
- **Must**, prior to rendering any tax preparation services, provide the customer, in writing, with the tax preparer's name, address, telephone number, and evidence of compliance with the bonding requirement.
- **Must** not make fraudulent, untrue, or misleading statements or representations that are intended to induce a person to use their tax preparation services.
- **Must** not obtain the signature of a customer on a tax return or authorizing document that contains blank spaces to be filled in after it has been signed.
- **Must** not fail or refuse to give a customer, a copy of any document requiring the customer's signature, within a reasonable time after the customer signs.
- **Must** not fail to maintain a copy of any tax return prepared for a customer for four years from the later of the due date of the return or the completion date of the return.

- **May** not engage in advertising practices that are fraudulent, untrue, or misleading, including assertions that the tax preparer bond in any way implies licensure or endorsement of a tax preparer by the State of California.
- **Must** not violate provisions of Section 17530.5 or 7216 of Title 26 of the United States Code prohibiting tax preparers from disclosing any information obtained in the business of preparing federal or state income tax returns unless (1) consented to, in writing, by the taxpayer in a separate document; (2) expressly authorized by law; (3) necessary for the preparation of the return; and, (4) pursuant to court order.
- **Must** not fail to sign a customer's tax return when payment for services rendered has been made.
- **Must** not fail to return, upon demand by or on behalf of a customer, records or other data provided to the tax preparer by the customer.
- **Must** not give false or misleading bond information to a consumer or give false or misleading information to a surety company in obtaining their tax preparer bond.
- **Must** apply for their Certificate of Completion within 18 months after completing their 60 hours of qualifying education from an approved provider.
- **Must** complete, on an annual basis, not less than 20 hours of continuing education from an approved curriculum provider (10 hours federal tax law, 2 hours ethics, 3 hours federal tax update and 5 hours California).

According to California Business & Professions Code Section 22253.2, and California Revenue & Taxation Code Section 19167, when a person prepares a tax return, for a fee, without the appropriate lawful designation, the Franchise Tax Board, pursuant to an agreement with the California Tax Education Council, will do the following: (1) The amount of the penalty under the subdivision for the first failure to register is two thousand five hundred dollars (\$2,500). This penalty shall be waived if proof of registration is provided to the Franchise Tax Board within 90 days from the date of notice of the penalty which is mailed to the tax preparer. (2) The amount of the penalty for a failure to register, other than the first failure to register, is five thousand dollars (\$5,000).

Violators of other sections of the statute are guilty of a misdemeanor, which offense is punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail for not more than one year, or by both. If a CRTP fails to perform a duty specifically imposed upon him or her pursuant to this statute, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of \$1,000, or for both enforcement and recovery.

The Superior Court, in and for the county in which any person acts as a tax preparer in violation of the provisions of this statute, may, upon a petition by any person, issue an injunction or other appropriate order restraining the conduct.

Approved July 21, 2000
CTEC Executive Committee

Responsibility: Tax Preparer Committee