



PREPARED IN ERROR

Mystery Shoppers in Florida Uncover Serious Tax Preparer Problems

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FLORIDA ALLIANCE
FOR CONSUMER PROTECTION
The voice for Florida consumers

*All 50 states regulate hairdressers....

*Only 4 states regulate paid tax preparers:

California

Oregon

Maryland

New York

***WHY?**

- *Paid tax preparers are individuals or commercial chains (H & R Block, Jackson Hewitt, Liberty Tax) who prepare taxes for individuals for a fee.
- *It does not include certified public accountants, attorneys, or Volunteer Income Tax Assistance (VITA), all of whom have licensing and training.
- *Over 70 million Americans use a paid tax preparer.
- *Paid tax preparers have no licensing or training.

***First, who are we talking about?**

- * Numerous testing studies in different states have found errors and fraud in returns prepared by paid tax preparers
- * 2006 and 2014 - GAO found an 89% error rate, including:
 - not reporting non-Form W-2 income (e.g., cash tips);
 - claiming an ineligible child for the Earned Income Tax Credit where applicable;
 - not asking the required eligibility questions for the American Opportunity Tax Credit; and
 - not providing an accurate preparer tax identification number.

***What is the problem?**

- * The Taxpayer Advocate recommended that the IRS establish standards for preparers as an "essential consumer protection measure."
- * In 2011, the IRS instituted licensing regulations for anyone who prepares tax returns for money.
- * The regulations covered 700,000 tax preparers.
- * In 2014, a federal appeals upheld the lower court ruling striking down the rules, *Loving vs. IRS*.
- * It remains with the states, therefore, to determine any licensing and training for paid tax preparers.

*** Can't the IRS fix it?**

Florida Alliance for Consumer Protection, with the National Consumer Law Center, used testers in two scenarios to determine problems with paid tax preparers in Florida.

*THE FLORIDA STUDY

*Single Parent Scenario

- The parent had a 3 year old minor child who spent weekdays with the other parent and weekends with the tester;
- The parent earned \$22,000 per year, reported on a W-2;
- The parent also had \$800 in side income not reported on a W-2 for handmade jewelry sales.

*Scenario One

* Graduate Student Scenario

- The graduate student had a paid internship at a local nonprofit earning \$9180 reported on a 1099-MISC;
- The graduate student had \$1520 from a 1099-DIV which was investment income from her uncle.

* Scenario Two

*The testers each visited three national chains as well as several storefront local businesses, individual preparers, and one service at a payday lender, all located in Tallahassee, Florida.

***Where did the testers
visit?**

- * Under the scenario, only the father was entitled to the Earned Income Tax Credit since the child spent most of her time with the father who provided more than 50% of her support.
- * However, 4 of 8 preparers improperly claimed the daughter, claiming an EITC of \$2,523 or more.

* Results for Scenario One - EITC

- * From the tester "the preparer explained that it would probably be better for me to claim the child since I make considerably less money than the father and as a result, my tax credits for claiming her as a dependent would be greater. She then offered to show me the difference between my return and the father's return if we each claim her as a dependent. Using my annual gross income...the return was over \$4000. Then using \$40,000 for the father...his return would be around \$900." The preparer suggested the tester explain it to the father this way.
- * A preparer at a major chain suggested the tester and father trade the EITC every year.

- * Under the facts, the side business of selling handmade jewelry and earning \$800 should have been reported on a Schedule C or C-EZ as business income.
- * 7 out of 8 preparers did not report the side income.

* Results for Scenario One - Side Business

- * An independent preparer told the tester "if the IRS doesn't know, there's no sense in claiming."
- * A preparer with a national chain suggested tester make the jewelry business a hobby and that if she expanded the business, she would need to complete a Schedule C; thus the preparer knew a Schedule C was the form needed.
- * One preparer who used an initial form completed by the tester never asked her about the jewelry sales income listed on the form.

- * According to the IRS, the tester's internship income should be reported on Schedule C as self-employment income.
- * 5 of 9 preparers did not use a Schedule C.
- * This resulted in a significant lowering of the tester's tax liability.

* Results for Scenario Two - Internship Income

- *Tester reported that an independent preparer "explained right away that he would apply my internship at [non-profit] as other income so that it would not be taxable."
- *Of those using Schedule C, 3 took improper deductions, including deductions for mileage even though the tester said she did not own a car and stated her boyfriend drove her to work.

- * All preparers properly reported the tester's income from the 1099-DIV.
- * However, an independent preparer "seemed tripped up by my mutual fund, asked if it was an overseas account because the computer prompted him to do so mentioning that he had never been asked that by the computer before."

* Results from Scenario Two - Reporting 1099-DIV

- * Preparer from a major chain "did not seem familiar with the tax preparation software."
- * Preparer forged the signature of someone else on the tax return.
- * Preparer "was at a partially obscured reception desk and I was sitting across the room," in explaining lack of privacy.
- * "The preparer [wanted] to help me with owing less but was unsure how to go about it," trying different fields on the computer adding "sometimes it made customers owe less."

* Professionalism and Knowledge

- * \$37 to \$427 for the single mother scenario
- * \$50 to \$341 for the graduate student scenario
- * The \$341 for the student was in the case where the preparer made up over \$9500 in deductions resulting in a \$34 refund instead of \$222 owed.
- * Single mother at one national chain told fees depended on the amount of the return - giving her 3 options with the amount owed increasing with the amount of refund.

*** Sampling of fees
charged**

- * Increase education of the public around the problems with paid tax preparers
- * Encourage the state to provide increased funding for VITA sites
- * Increase the public's knowledge of VITA sites
- * Consider state regulation of paid tax preparers

*** What can be done about a 90% error rate by paid preparers?**

- * Obtain a registration unless the preparer fit into one of the exceptions
- * Pass a basic competency exam
- * Have 60 hours of initial education and 15 hours per year of continuing education, and
- * Provide a standardized disclosure of their fees

*** What a Florida law
might contain**

* Alice Vickers

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See the full study at

www.nclc.org/issues/prepared-in-error.html

Special thanks to ChiChi Wu, attorney

National Consumer Law Center

* **Questions/Follow-up**



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| MONTH | DAY | YEAR | AM | HOUR | MIN |
| Dec | 02 | 2016 | PM | 12 | 00 |
| PRESENT TIME | | | | | |
| MONTH | DAY | YEAR | AM | HOUR | MIN |
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