

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	07/22/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 9/2/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

09 38 01 01

3. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

4. Name of Regulations Coordinator Telephone Number

Jessica V Carter 410-230-6112

Mailing Address

500 N. Calvert Street, Suite 406

City State Zip Code

Baltimore MD 21202

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5. Name of Person to Call About this Document Telephone No.

Dennis L. Gring 410 230-6224

Email Address

dennis.gring@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Matthew A.

Lawrence, Assistant Attorney General, (telephone #(410) 230-6137) on July 18, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Dennis L. Gring

Title

Executive Director

Telephone No.

(410) 230-6224

Date

July 20, 2016

Title 09
DEPARTMENT OF LABOR, LICENSING, AND
REGULATION

Subtitle 38 BOARD OF INDIVIDUAL TAX PREPARERS

09.38.01 .01

Authority: Business Occupations and Professions Article, §§21-101, 21-102, and 21-205,
Annotated Code of Maryland

Notice of Proposed Action

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The Board of Individual Tax Preparers proposes to amend Regulation .01 under COMAR 09.38.01 General Regulations.

This action was considered by the Board at a public meeting held on June 13, 2016, notice of which was published on the Board's website, pursuant to General Provisions Article §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to give interpretive guidance to the public and the regulated industry by providing examples of activities the Board considers to constitute providing individual tax preparation services as that term is defined in § 21-101(f) of the Business Occupations and Professions Article, Annotated Code of Maryland. Additionally, the Board has defined and provided specific examples of a category of services, administrative support services that do not constitute providing individual tax preparation services. Under §§ 21-102(b) and 21-301 of the Business Occupations and Professions Article, Annotated Code of Maryland, unless specifically exempted, only an individual registered with the Board may provide individual tax preparation services in Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Dennis L. Gring, Executive Director, Board of Individual Tax Preparers, 500 North Calvert Street, Third Floor, Baltimore, MD 21202, or call 410-230-6224, or email to dennis.gring@maryland.gov, or fax to 410 333-6314. Comments will be accepted through October 3, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Individual Tax Preparers during a public meeting to be held on October 24, 2016, 1:00 PM, at 500 N. Calvert Street, 3rd Floor Conference Room, Baltimore, MD 21202.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2017

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used: The Individual Tax Preparers Fund, a special fund, will be used to implement this regulation

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly: The proposed regulation only clarifies which activities performed by individuals of a tax preparation service comprise "providing individual tax preparation services" as defined by § 21-101 (f) and, thus, require an individual to be registered. The regulation also specifies which activities do not require registration.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

This regulation does apply to small business. However, the registration requirements of Maryland Individual Tax Preparers Act apply only to individual tax return preparers.

G. Small Business Worksheet:

Impact Statement Part C — Legislative Information

Part C requests agencies to provide information required by the Department of Legislative Services in its report to the AELR Committee. Answer the questions in the space provided. Part C is not printed in the Maryland Register.

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates

of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

“Economic impact analysis” means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

The intended beneficiaries include both tax payers and tax preparation services.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

The regulation protects tax payers (households) by requiring individual who are meaningfully involved in the accurate preparation of their tax returns are properly registered.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

The regulation also benefits businesses that offer tax preparation services in that it provides clarification of which individuals involved in the tax preparation services need to be registered. Businesses can then be reassured that individuals in their employ have been tested and meet the requirements for registration.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to

calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

None.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

None.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

There is no long-term economic impact as the proposed regulation.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

There may be a positive effect on the accuracy of tax returns filed by tax payers
Otherwise, there are no other obvious economic impacts.

Attached Document:

Title 09 DEPARTMENT OF LABOR, LICENSING AND REGULATION

Subtitle 38 STATE BOARD OF INDIVIDUAL TAX PREPARERS

01 General Regulations

Authority: Business Occupations and Professions Article, §§21-101, 21-102, and 21-205, Annotated Code of Maryland

.01 The Board.

A. In this chapter, the following terms have the meanings indicated:

(1)--(3) (text unchanged)

(4) *"Provide administrative support services" means to provide any of the following services not within the meaning of subsection A(5) of this regulation:*

(a) *Answering telephones;*

(b) *Greeting clients or prospective clients;*

(c) *Scheduling appointments;*

(d) *Making copies;*

- (e) Printing documents;*
- (f) Processing mail;*
- (g) Verifying data entered on a return matches data on client documents;*
- (h) Checking accuracy of the math on a tax return; and*
- (i) Notifying a client that a tax preparer has requested a particular document.*

(5) "Provide individual tax preparation services" as defined in § 21-101(f) of the Business Occupations and Professions Article means to provide any service that involves the specific expertise or judgment of a tax preparer and includes, but is not limited to, any of the following services :

- (a) Entering or changing data on a personal income tax return unless directly instructed by:
 - (i) a registered tax preparer; or*
 - (ii) an exempt individual as defined in § 21-101(b);**
- (b) Signing a personal income tax return as the preparer;*
- (c) Asking a client any personal income tax-related question other than those necessary to schedule an appointment with a tax preparer unless directly instructed by:
 - (i) a registered tax preparer; or*
 - (ii) an exempt individual as defined in § 21-101(b); and**
- (d) Answering any question related to personal income taxes or personal income tax returns other than verifying the date a return was filed or whether a document was received by the tax preparer unless directly instructed by:
 - (i) a registered tax preparer; or*
 - (ii) an exempt individual as defined in § 21-101(b).**

B.--C. (text unchanged)

FREDRIC BADER, CHAIR

State Board of Individual Tax Preparers