

270C.447 LEGAL ACTION TO ENJOIN TAX RETURN PREPARER.

Subdivision 1. **Commencement of action.** A civil action in the name of the state of Minnesota may be commenced to enjoin any person who is a tax return preparer doing business in this state from further engaging in any conduct described in subdivision 2. An action under this subdivision must be brought by the attorney general in the district court for the judicial district of the tax return preparer's residence or principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over the action separate and apart from any other action brought by the state of Minnesota against the tax return preparer or any taxpayer.

Subd. 2. **Injunction prohibiting specific conduct.** In an action under subdivision 1, if the court finds that a tax return preparer has:

(1) engaged in any conduct subject to a civil penalty under section 289A.60 or a criminal penalty under section 289A.63;

(2) misrepresented the preparer's eligibility to practice before the Department of Revenue, or otherwise misrepresented the preparer's experience or education as a tax return preparer;

(3) guaranteed the payment of any tax refund or the allowance of any tax credit; or

(4) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of a law administered by the commissioner, and injunctive relief is appropriate to prevent the recurrence of that conduct,

the court may enjoin the person from further engaging in that conduct.

Subd. 3. **Injunction prohibiting all business activities.** If the court finds that a tax return preparer has continually or repeatedly engaged in conduct described in subdivision 2, and that an injunction prohibiting that conduct would not be sufficient to prevent the person's interference with the proper administration of a law administered by the commissioner, the court may enjoin the person from acting as a tax return preparer. The court may not enjoin the employer of a tax return preparer for conduct described in subdivision 2 engaged in by one or more of the employer's employees unless the employer was also actively involved in that conduct.

Subd. 4. **Tax return preparer.** For purposes of this section, the term "tax return preparer" means an individual who prepares for compensation, or who employs one or more individuals to prepare for compensation, a return of tax or a claim for refund of tax. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. An individual is not considered a tax return preparer merely because the individual:

- (1) gives typing, reproducing, or other mechanical assistance;
- (2) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the individual is regularly and continuously employed;
- (3) prepares a return or claim for refund of any person as a fiduciary for that person; or
- (4) prepares a claim for refund for a taxpayer in response to a tax order issued to the taxpayer.

History: *2005 c 151 art 1 s 55*