

270C.446 PUBLICATION OF NAMES OF TAX PREPARERS SUBJECT TO PENALTIES.

Subdivision 1. **Publication of list.** Notwithstanding any other law, the commissioner must publish as provided in this section a list or lists of tax preparers subject to penalties.

Subd. 2. **Required and excluded tax preparers.** (a) Subject to the limitations of paragraph (b), the commissioner must publish lists of tax preparers as defined in section 289A.60, subdivision 13, paragraph (f), who have been convicted under section 289A.63 for returns or claims prepared as a tax preparer or assessed penalties in excess of \$1,000 under section 289A.60, subdivision 13, paragraph (a).

(b) For the purposes of this section, tax preparers are not subject to publication if:

(1) an administrative or court action contesting the penalty has been filed or served and is unresolved at the time when notice would be given under subdivision 3;

(2) an appeal period to contest the penalty has not expired; or

(3) the commissioner has been notified that the tax preparer is deceased.

Subd. 3. **Notice to tax preparer.** (a) At least 30 days before publishing the name of a tax preparer subject to penalty, the commissioner shall mail a written notice to the tax preparer, detailing the amount and nature of each penalty and the intended publication of the information listed in subdivision 4 related to the penalty. The notice must be mailed by first class and certified mail addressed to the last known address of the tax preparer. The notice must include information regarding the exceptions listed in subdivision 2, paragraph (b), and must state that the tax preparer's information will not be published if the tax preparer provides information establishing that subdivision 2, paragraph (b), prohibits publication of the tax preparer's name.

(b) Thirty days after the notice is mailed and if the tax preparer has not proved to the commissioner that subdivision 2, paragraph (b), prohibits publication, the commissioner may publish in a list of tax preparers subject to penalty the information about the tax preparer that is listed in subdivision 4.

Subd. 4. **Form of list.** The list may be published by any medium or method. The list must contain the name, associated business name or names, address or addresses, and violation or violations for which a penalty was imposed of each tax preparer subject to penalty.

Subd. 5. **Removal from list.** The commissioner shall remove the name of a tax preparer from the list of tax preparers published under this section:

(1) when the commissioner determines that the name was included on the list in error;

(2) within 90 days after the preparer has demonstrated to the commissioner that the preparer fully paid all fines imposed, served any suspension, satisfied any sentence imposed, and successfully completed any remedial actions required by the commissioner, the State Board of Accountancy, or the Lawyers Board of Professional Responsibility; or

(3) when the commissioner has been notified that the tax preparer is deceased.

Subd. 6. Names published in error. If the commissioner publishes a name under subdivision 1 in error, the tax preparer whose name was erroneously published has a right to request a retraction and apology. If the tax preparer so requests, the commissioner shall publish a retraction and apology acknowledging that the tax preparer's name was published in error. The retraction and apology must appear in the same medium and the same format as the original list that contained the name listed in error.

Subd. 7. Payment of damages. Actions against the commissioner of revenue or the state of Minnesota arising out of the implementation of this program must be brought under section 270C.275.

History: 2005 c 151 art 1 s 116; art 9 s 10; 2008 c 154 art 15 s 6; 2009 c 88 art 11 s 3,4