



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2007 Senate Bill 69

**Assembly Substitute
Amendment 3**

Memo published: February 27, 2008

Contact: Scott Grosz, Staff Attorney (266-1307)

Current law does not generally prohibit a tax preparer or entity that employs tax preparers from disclosing information obtained in the course of preparing a client's tax return.

2007 Senate Bill 69 prohibits a tax preparer or entity that employs tax preparers from disclosing information obtained in the course of preparing a client's tax return unless the preparer or entity provides the client with a separate document that identifies the parties to whom the information will be disclosed and the client signs the document authorizing the disclosure.

Under Senate Bill 69, "tax preparer" means a person who, in exchange for compensation or expectation of compensation, prepares a tax return of another person."

Assembly Substitute Amendment 3 excludes the following from the definition of "tax preparer:"

- An individual who or firm that is licensed under s. 442.08.
- An individual who is licensed to practice law in this state.
- An individual who is employed by a corporate trustee, bank, or trust company and who is authorized to provide fiduciary services under state or federal law.

The amendment requires that the tax preparer or entity provide a separate document identifying all of the following:

- The persons to whom the tax preparer or entity intends to disclose the information.
- The specific information that the tax preparer or entity intends to disclose.
- The purpose of the disclosure.

The document presented to the client must inform the client of his or her right to revoke the consent to disclosure and must be signed by the client. The tax preparer or entity must also provide a copy of the signed document to the client within 30 days of completion of work on the client's return or the date on which the client signs the return, whichever is first. The document provided by the tax preparer or entity is valid for one year from the date it is signed by the client or until the client revokes consent, whichever occurs first.

The tax preparer or entity receiving a disclosure document from a client must retain a copy of the document for as long as that tax preparer or entity retains the client's tax records for the tax year in which the client has consented to disclosure.

The amendment clarifies that the disclosure provisions of the bill do not apply to the disclosure of information to:

- A federal, state, or local government entity authorized to collect fees.
- A federal, state, or local law enforcement agency.
- A court.

The amendment establishes a private right of action for pecuniary losses due to violations of the amendment's provisions. If a person prevails, he or she may recover twice the amount of the pecuniary loss or \$200 for each violation, whichever is greater, together with costs, including reasonable attorneys fees. The Department of Agriculture, Trade and Consumer Protection (DATCP) may commence an action to restrain any violation of the amendment's provisions and either DATCP or a district attorney may commence an action in the name of the state to recover a forfeiture of not less than \$100 nor more than \$10,000 for each violation of the amendment.

Legislative History

Representative Friske offered Assembly Substitute Amendment 3 on February 6, 2008.

The Assembly Committee on Consumer Protection and Personal Privacy adopted Assembly Substitute Amendment 3 by a vote of Ayes, 8; Noes, 0; Absent, 1, and recommended concurrence with 2007 Senate Bill 69, as amended, by a vote of Ayes, 8; Noes, 0; Absent, 1, on February 19, 2008.

SG:jal:ksm:jb;wu