

Efforts to Regulate Refund Anticipation Loan (RAL) Practices



Many commercial tax preparers offer refund anticipation loans (RALs) to enable the taxpayer to get a check in the amount of his or her refund (less charges and fees) within a day or two. The “refund” in this situation is not coming from the IRS: It is a loan from a bank, arranged by the commercial tax preparer. The bank is repaid when the IRS sends it the taxpayer’s refund check. The fees charged for the RAL are really up-front interest payments on the loan. If the EIC does not come back from the IRS in the amount expected, the taxpayer will have to repay the difference to the bank.

According to the National Consumer Law Center and the Consumer Federation of America, RALs drained money from the refunds of about 8.4 million American taxpayers in 2008. These taxpayers paid approximately \$738 million in loan fees, plus over \$68 million in other fees.

While regulations have been put in place by both national and state authorities, recent enforcement lawsuits and undercover investigations suggest that the protections have not been adequately implemented.

FEDERAL REGULATIONS:

- IRS regulations require commercial tax preparers to:
 - **Disclose** the loan fees and interest rates for the RAL;
 - **Tell** people that they can file their return electronically without applying for the RAL, how much electronic filing costs, and about how long it will take to get the refund;
 - **Charge the same fee** for basic electronic filing regardless of whether a customer also pays for the RAL and without regard to the amount of the refund; and
 - **Inform** people that they will be financially responsible for the loan if the IRS delays the refund, reduces the refund amount, or denies the refund completely.
 - **Obtain identification numbers** from the IRS to file returns electronically. The IRS can revoke this number if RAL regulations, designed to give more protection to taxpayers, are violated.

STATE REGULATIONS:

Some state laws require more stringent standards for RALs than federal regulations. For example, many states prohibit tax preparers from charging add-on fees only to RAL and RAC customers and regulate the types of businesses permitted to offer RALs. Until recently, some states also capped RAL interest rates, which frequently exceed 100 percent APR.

The National Consumer Law Center reports that states have enforced RAL regulations through the legal system. In 2008, the California and New Jersey Attorneys General both settled lawsuits against tax preparers for deceptive advertising in promotion of RALs. The New York State Division of Human Rights also sued tax preparers for discriminatory targeting of minorities for RALs.

RECENT FEDERAL DEVELOPMENTS

In 2008, the IRS took a tentative step toward RAL reform by studying the possibility that RALs and Refund Anticipation Checks (RACs) act as incentives for preparers to improperly inflate refunds. IRS researchers found that RAL users are 27-36 percent more noncompliant than taxpayers who do not use a financial product. In January 2010, when the IRS announced new registration and education requirements for paid tax preparers, it also declared its intention to convene a working group on “refund settlement products,” meaning RALs and other products used to speed or re-direct taxpayer refunds.



Find It On the Web

National Consumer Law Center’s publications: www.consumerlaw.org/initiatives/refund_anticipation

Consumer Federation of America’s publications: <http://www.consumerfed.org/finance/payday.asp>

IRS Questions & Answers about disclosure of taxpayer information for RALs:

www.irs.gov/newsroom/article/0,,id=177100,00.html