

IRS Reinstates Practitioners After Loving Case

Cross References

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The Internal Revenue Service has announced that some suspended or disbarred tax professionals are now permitted to obtain or renew preparer tax identification numbers (PTIN) and may again prepare federal tax returns for compensation as a result of a recent court decision.

This change applies to individuals who were sanctioned (suspended or disbarred, with PTIN access blocked) pursuant to Treasury Department Circular No. 230 between August 2, 2011 and February 11, 2014.

In a decision issued on February 11, 2014, in the case of Sabina Loving, et al. v. Internal Revenue Service, et al. (No. 1:12-cv-00385), the United States Court of Appeals for the District of Columbia Circuit sustained a Federal District Court decision and injunction against the IRS which prohibits it from administering regulations requiring return preparers to pass a competency test and complete annual continuing education before obtaining or renewing PTINs.

Both courts concluded that tax return preparation does not constitute representation within the meaning of the statute relied on by the IRS to authorize the regulatory actions that were struck down. The Circuit Court's decision became final on May 12, 2014. Neither the injunction nor the court decisions affect or apply to the PTIN requirements, which are based on separate statutory authority.

In light of the decisions and the injunction, the IRS' Office of Professional Responsibility (OPR) has determined that a suspension or disbarment from practice before the IRS may not include a restriction on return preparation for compensation, and that access to the PTIN required for such services may no longer be blocked based on discipline under Circular 230.

OPR has sent letters to the individuals who currently are suspended or disbarred from practice before the IRS as a result of disciplinary action taken by OPR. The notice informs the individuals of their change in status.

Any individual who has been suspended or disbarred in a Circular 230 proceeding who does not receive the notice referenced in this press release may determine his or her status with respect to PTIN eligibility by calling the main OPR number at 202-317-6897.

Individuals who have been enjoined by a court from return preparation are not affected by this action. And individuals under suspension or disbarment will not be entitled to represent their clients before the IRS for any purpose during their disciplinary period.