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## Cato Institute: Tax Preparer Licensing a Conspiracy Plot

January 5th, 2010 · [2 Comments](#)

*“The complete lack of evidence is the surest sign the conspiracy is working.”*

- Anonymous -

[Dan Mitchell](#) of the [Cato Institute](#) - with whom I almost always agree - thinks the recently issued IRS preparer recommendations are a conspiracy plot. Here's what he writes in his column titled [H&R Block and the IRS: An Unholy Alliance to Ransack Taxpayers](#):

Not surprisingly, the new rules have the support of big tax preparation shops such as H&R Block and Jackson Hewitt, which see this as an opportunity to squeeze smaller competitors out of the market. The IRS and the big firms claim more regulations are needed to protect consumers from shoddy work, but this is the usual rationale for licensing laws and other government-imposed barriers to entry and the Institute for Justice has repeatedly shown such rules are designed to benefit insiders rather than consumers.

I have read all 57 pages of the IRS's [Return Preparer Review](#) and could not find any exemption from it's requirements for [H&R Block](#), [Jackson Hewitt](#) or any other national tax preparation outfit. If this were truly a conspiracy or an unholy alliance between the national tax preparation companies and the IRS as Mr. Mitchell suggests, one would certainly expect to find such an exemption.

The truth is the tax preparers at H&R Block and Jackson Hewitt, like all other non-attorney, non-CPA, non-Enrolled Agent tax preparers, will now have to [register with the IRS, pass a competency test and meet modest continuing education requirements](#). That these companies already provide continuing tax education to their tax preparer employees should redound to their credit rather than trigger naked allegations of conspiracy.

I have said this before and it's worth repeating: If Mr. Mitchell truly believes that licensing laws are designed to benefit insiders rather than consumers, then one would assume that, in addition to the licensing and regulation of tax preparers, he would oppose the licensing and regulation of the following professionals:

- Heart Surgeons
- Pharmacists
- Engineers
- Electricians
- Aviation Mechanics
- Nurses
- Anesthesiologists

- Jet Pilots

The tautological gist of Mr. Mitchell’s criticism seems to be this: *Licensing laws are unfair because they create standards that benefit only those who are able to meet those standards.*

Well, of course. That’s s precisely what they are designed to do. The stated and solitary goal of *all* professional licensing laws is to limit the supply of practitioners and, thereby, increase the average level of competence of practitioners. No?

Finally, the mere fact that licensing standards (or [barriers to entry](#), if you prefer) happen to benefit those who are intelligent, determined and diligent enough to meet those standards (crash through the barriers), does not render those standards inept, unfair or unreasonable.

Incidentally, I do agree with Mr. Mitchell when he says that what we really need is an overhaul of our tax system:

Tax preparers do make many mistakes, to be sure, but that is a reflection of a nightmarish tax code, and the annual tax test conducted by *Money* magazine showed that even the most-skilled professionals — such as CPAs, tax lawyers, and enrolled agents — were unable to figure out how to correctly fill out a hypothetical family’s tax return. But since the IRS routinely makes major mistakes as well, perhaps the moral of the story is that we need fundamental tax reform.... Would any of this be an issue if we had a flat tax or national sales tax?

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Tags: [Regulation of Tax Preparers](#)

2 responses so far ↓

- [1 Charlie McGrath](#) // Jan 11, 2010 at 11:59 am

Tax preparers have a fiduciary responsibility to operate in the interests of the taxpayer. But now they will be more like partners with the IRS and act like a auditors with the due diligence recommended in the new letters that will go out to the so-called bad apples. Exempting lawyers(surprise) and CPA’s is ridiculous. CPA’s have narrow tax specific training and lawyers are worse. The tax law is fluid, changing on every political wind. They just changed the first homebuyer credit for 2009 in November. What do we study for the exams while we are studying the most recent changes that are now applicable? Lawyers and CPA’s are adamant that testing is important but are just as adamant about being exempted because they took a test for their license. When? If that is valid then doctors should be able to prepare tax returns too and be exempt. If you received a JD or a CPA in 1982 and haven’t kept up with tax law then why should you be exempt?  
My prediction is that this will significantly reduce the availability of the field participants and severely damage compliance and revenues. Testing an estimated one million people will be interesting. It will ceratinly create a lot of new government jobs.

- [2 Unenrolled Tax Preparer: Preparer Regulation is a CPA Plot to Put Me Out of Business](#) // May 19, 2010 at 3:30 pm

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