

IRS Suspends PTIN Registrations and Renewals After Court Holding

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By William Hoffman

The IRS suspended registrations and renewals under its preparer tax identification number program June 5, and is working with the Justice Department on how to proceed in the wake of a June 1 district court decision striking down the IRS's PTIN fees.

The U.S. District Court for the District of Columbia held in *Steele v. United States*, [No. 1:14-cv-01523 \(D.D.C. 2017\)](#), that the IRS did not have authority to charge fees for the PTIN program. With more than 700,000 current registrants, who must renew their PTINs annually, the decision leaves the IRS [potentially owing](#) hundreds of millions of dollars in refunded fees dating back to their inception in 2010.

Allen Buckley, co-counsel for the plaintiffs in *Steele*, welcomed the IRS's [announcement](#) that it is halting PTIN registration and renewals. "Hopefully, this means [the IRS and Treasury] are not going to appeal. Obviously they have that right. We'll see what happens," he told Tax Analysts.

Dan Alban, an attorney at the Institute for Justice, noted that *Steele* did not challenge, and the district court did not overturn, the PTIN program itself. "Under *Steele*, the IRS is only prevented from charging a fee for PTIN registration and renewal," he said.

Alban speculated that the IRS decided to suspend the program because it doesn't want to use its own budget to pay the outside vendor it uses to process PTIN applications, which he said costs the agency \$17 per application. "In other words, they were happy to make tax preparers pay the vendor's \$17 PTIN processing fee, but are not willing to pay that fee themselves," he said.

The \$17 figure for the vendor fee comes from a 2015 IRS news release ([IR-2015-123](#)).

Stephen F. Mankowski, president of the National Conference of CPA Practitioners (NCCPAP), said that invalidating the PTIN user fee constitutes another cut to the IRS budget, because the administrative costs of the PTIN program still exist. "NCCPAP is still in favor of allowing the IRS to regulate tax preparers," he said, "and hopes that this ruling is not yet another step to remove authorities from the IRS."

Jeffery S. Trinca, legislative counsel for the National Association of Enrolled Agents, also denounced the holding in *Steele*. "This is just the latest example of why Congress needs to take action to overturn the *Loving* [*v. IRS*] case and the cases that have come from it," he said. "The harm done to the tax administration system is considerable."

In *Loving*, [742 F.3d 1013 \(D.C. Cir. 2014\)](#), the D.C. Circuit invalidated the IRS's plan to

regulate tax return preparers, holding that tax return preparation did not constitute practice under Circular 230 and was thus outside the authority of the Treasury Department and the IRS. Alban's Institute for Justice represented the plaintiffs in *Loving*, and *Loving* was cited by the district court as laying the ground for its decision in *Steele*.

Buckley said he would confer with co-counsel about whether the PTIN registration and renewal suspension will affect the *Steele* plaintiffs' strategy. "We still have to get the money back," he said.