



May 9, 2019

Mr. Casey Adams  
Director of City Legislative Affairs  
New York City Department of Consumer Affairs  
42 Broadway, 8th Floor  
New York, NY 10004

By E-mail - Rulecomments@dca.nyc.gov

**Re: Comments on NYC DCA Proposed Amendments of Rules Governing Tax Preparers**

Dear Mr. Adams:

On behalf of the New York State Society of Certified Public Accountants (NYSSCPA), an organization representing more than 24,000 CPAs in public practice, business, government and education, I write to express our concerns with the amendments proposed by the New York City Department of Consumer Affairs (DCA) to the rules governing tax preparers. As detailed below, while NYSSCPA finds it laudable that the DCA is amending its rules to enhance consumer protection for tax preparers, with regard to certified public accountants (“CPAs”), the underlying existing rule and the proposed amendment are inconsistent with longstanding Rules of the City of New York. For CPAs they are effectively unnecessary and impractical. As a result, NYSSCPA respectfully requests that the DCA further modify the existing rule and the proposed amendment to exempt CPAs.

By way of background, Title 20 of the Rules of the City of New York sets forth consumer protection requirements for income tax preparers, including signage requirements. These rules specifically exempt CPAs.

Effective January 13, 2018, Title 6 of the Rules of the City of New York was amended to impose additional consumer protection measures on tax preparers generally, including signage requirements. More specifically, section 5-66(v) of Title 6 of the Rules of the City of New York now requires tax preparers who advertise their services to post information regarding how they compute their fees and to post certain disclosures. Now, due to complaints recently received from tax preparers regarding their ability to comply with price list sign requirements when conducting business at a consumer’s home or business, the DCA is proposing additional amendments to require a tax preparer who conducts business at a consumer’s home or business to provide such consumer with a hard copy of the tax preparer’s price list rather than post signs wherever payment is made. Absent from these changes is an exemption for CPAs.

The Rules of the City of New York, Title 20, has exempted certain professions – CPAs, lawyers and enrolled agents – from signage requirements for many years. This structure has worked well and gone without issue. The recent changes to Title 6 of the Rules of the City of New York and the proposed amendment appear to be an attempt to address an issue that does not exist. NYSSCPA, therefore, urges

the DCA to modify Title 6 and the proposed amendment to make them consistent with longstanding consumer protection rules set forth in the Rules of the City of New York.

New York laws and regulations have long set forth a clear distinction between tax preparers and CPAs. CPAs are professionals licensed and rigorously regulated by the New York State Education Department. Among other requirements, CPAs must adhere, at all times, to the rules of conduct set forth in Part 29 of the Rules of the Board of Regents. CPAs must maintain minimum continuing education hours, including substantial hours in ethics training. The rules of conduct prohibit deceptive pricing or practices and licensure can be suspended or revoked for such conduct. Due to this structure, applying section 5-66(v) of Title 6 of the Rules of the City of New York and the proposed amendment is wholly unnecessary.

Finally, it is impractical to impose these requirements on CPAs. CPAs typically bill based on time incurred, not a flat rate. In larger practices, CPAs meet with clients throughout their offices and frequently meet with clients at the client's office to transact business. CPAs should not be required to conduct their business as they move from place to place by continually checking that they have with them hard copies of price lists to distribute to clients or potential clients. It would be just as impractical to expect lawyers, doctors, etc. to do the same, and indeed they are not so required. It is also significant to note that an important distinction between CPAs and tax preparers is that CPAs utilize engagement letters spelling out in advance pricing and services – a practice much more comprehensive than a sign or distribution of a generic price list. Complying with a redundant requirement only adds costs that must be recouped, which potentially puts CPAs out of reach of the clients who most need a trusted preparer.

In sum, NYSSCPA is fully supportive of enhanced consumer protection measures, particularly those that involve protections from unscrupulous tax preparers, but Section 5-66(v) of Title 6 of the Rules of the City of New York and the proposed amendment must be modified to exempt CPAs.

Please contact Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303 or by email at [ejmarkezin@nysscpa.org](mailto:ejmarkezin@nysscpa.org) if you have any questions or need any additional information.

Respectfully submitted,

  
Jan C. Herringer, CPA  
President