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# The German Solution to the Incompetent Tax Preparer Problem

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**The author describes the German system of licensing tax return preparers.**



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In West Germany tax return preparers must be licensed — so why not in the United States? This may be just the solution to the American problem of incompetent or even fraudulent tax return preparers.

In the United States income tax returns are prepared for a fee not only by attorneys, certified public accountants, and licensed public accountants (the latter being a vanishing group since no new licenses are being issued), but also by persons who are not required to prove their competence in the field of taxation to a state examining body. It is true that nationwide firms of income tax preparers instruct their employees during a short training period; however, the standards of expertise to be achieved are those of the particular firm, rather than those of the state licensing office. And, of course, there are the individual preparers who hang up their shingles — some for the duration of the tax season only — and are not examined or supervised by anyone.

It is astonishing that a person must pass a rather rigid state test before he or she

can style, cut, or otherwise treat another person's hair, while no equivalent test is required of those who prepare another person's income tax return. The most unfortunate aspect of this situation is that many taxpayers are ignorant of the fact that the signature of a preparer on a tax return is not necessarily indicative of the preparer's ability to compile an acceptable return. Unless taxpayers engage a CPA, an LPA, or an attorney, they cannot count on assistance or representation in case of an IRS audit. Most taxpayers don't know this until it is too late.

A report filed by the House Government Operations Committee states that investigations by the IRS and the Federal Trade Commission have uncovered "widespread incompetence, dishonesty or unethical conduct in the tax preparation business, which last year prepared almost half of all individual returns." While noting that the IRS is moving to prosecute those commercial tax preparers who have engaged in fraudulent practices, the committee said that there are no restrictions on entering this rapidly grow-

ing field. The report recommends that the IRS monitor preparers more closely, that the Federal Trade Commission increase its investigation of fraudulent advertising in the industry, and that the IRS upgrade the quality of its taxpayer service representatives.<sup>1</sup> These measures, if carried out, may result in improvement of the situation but seem unlikely to bring forth an adequate solution.

The adoption of a licensing system similar to West Germany's would insure the fee-paying public of a minimum level of competence achieved by all tax preparers. At the same time it would enable those tax preparers who do not have the inclination to become CPAs to strive for a worthwhile goal which they may be capable of reaching.

## The German Licensing System

There are three types of tax preparers or consultants in West Germany:

1. the authorized preparer of individual tax returns (Steuerbevollmaech-tigte),

2. the tax advisor-preparer of and advisor on all types of tax returns (Steuerberater), and

3. the business auditor, equivalent to a CPA, preparer of tax returns and audited statements (Wirtschaftspruefer).

The authorized preparer of individual tax returns is allowed to do so for a fee. In order to be so licensed, one is required to pass a state board examination after fulfilling the following educational and experience requirements:

A. Completion of six years of high school. (The German education system offers to those who want to pursue careers of higher education four years of elementary school and nine years of high school after which entrance to a university is permissible. For those who are not planning a college education but want a semi-professional or white collar career, six years of high school with special training following the formal schooling is acceptable.)

B. Subsequent completion of a three-year apprenticeship in a tax advisor's or business auditor's office or completion of four semesters in a recognized accounting school (similar to a U.S. vocational school or possibly a junior college).

C. Completion of four years of full-time employment in the area of taxation.

After the above requirements have been met, the candidate is examined by a state examining body on the subjects of tax law, basic accounting, commercial law, and labor law. In addition to achieving a passing grade on this examination, the candidate must also prove no previous conviction for a crime, prove to be of moral fiber, and prove that his or her finances are in order. After all these conditions are met, the candidate will be permitted to practice as an authorized preparer of individual income tax returns.

The tax advisor is allowed to prepare all types of tax returns and to prepare financial statements for clients. This person is, however, not qualified to prepare certified audit reports of publicly-owned corporations. The requirements for a tax advisor are as follows:

A. A bachelor's degree in business administration or law from an accredited institution of higher learning, and

B. three years of full-time experience in the area of taxation, at the conclusion of which a state examination must be successfully completed.

The test for qualification as a tax advisor covers the following areas: tax law (income as well as property, value-added, inheritance, and other taxes), business administration and economics, accounting, business law, and labor law. The per-

sonal requirements of good character and sound financial condition are the same as those for the authorized tax preparer.

The business auditor has the highest qualifications in the profession. The auditor performs essentially the same tasks as the American CPA. He or she is required to pass a comprehensive state examination after meeting the following educational and experience requirements:

A. A bachelor's degree in business administration or law from an accredited institution of higher learning, and

B. six years of experience in business concerns, of which at least four years have been spent in the field of auditing.

The state examination of the aspiring business auditor is similar to that of the tax advisor in nature; however, a higher level of knowledge must be demonstrated in all areas under examination. Auditing of private enterprises, municipalities, and cooperatives is an additional subject of the examination. The candidate must also present to the examining board two audit reports which he or she has prepared independently. The clients' approvals to use the reports for this purpose are required. The personal requirements of good character and sound financial condition are the same as those for the authorized tax preparer and the tax advisor.

### Conclusion

While a licensing system, such as the one employed in West Germany, would no doubt answer the American need for the protection of the public, it seems cumbersome in its application. The experience requirement, particularly, does appear to be unduly long. However, a committee of experts in the field of American taxation should be able to study the German system and systems existing in other countries and adapt them to fit the American tax structure and thus to protect the American taxpayer from an incompetent tax preparer.

### Footnote

<sup>1</sup>*Regulation of Income Tax Return Preparers*, Hearings before the Subcommittee on Legal and Monetary Affairs of the Committee on Government Operations; House of Representatives, Ninety-Second Congress — Second Session, H.R. 7590.

## CLASSIFIED NEWS

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