



**Testimony of Peter A. Hatch  
New York City Department of Consumer and Worker Protection**

**Before the  
City of Albuquerque Committee on Finance and Government Operations**

**November 8, 2021**

My name is Peter Hatch, and I am the Commissioner of the New York City Department of Consumer and Worker Protection (“DCWP”). I submit this testimony today in support of Albuquerque Council Bill Number O-21-77 – a bill that would, among other things, require tax preparation services to provide substantive, important consumer disclosures and prohibit certain predatory conduct.

**NYC’s Regulatory Framework for Tax Preparers**

In New York City, DCWP has had oversight of the tax preparation industry since the 1980’s through provisions in the NYC Administrative Code and the Rules of the City of New York. These laws and rules regulate the industry in two ways: (1) by mandating certain consumer disclosures be made through signage and documentation that must be provided to customers; and (2) by prohibiting certain potentially misleading and/or predatory conduct.

With respect to disclosures, tax preparers must, among other things:

- Have a sign setting forth the services offered and related fees.
- Disclose if they will *not* represent consumers at tax audits.
- Disclose if they are *not* an attorney or Certified Public Accountant.
- Have a sign listing their relevant qualifications.

Moreover, prior to accepting money from customers, tax preparers must provide, in writing:

- A list of refund options and tax services offered.
- An estimate of the total cost of all charges for services offered.
- An estimate of how long a customer can expect to wait for a refund.
- An estimate of the interest rate for any Refund Anticipation Loan, or other related loan or service, offered.
- A copy of New York City’s [Consumer Bill of Rights Regarding Tax Preparers](#), which is updated each year and lists essential consumer rights, explanations of common tax terms, and current issues with income tax preparation.

With respect to predatory conduct, tax preparers are precluded from, among other things:

- Requiring that customers use Refund Anticipation Loans (“RALs”), or other similar products, such as payment options that allow customers to pay for tax prep services using their refunds, but generally have unexpected *additional* fees or high interest rates.

- Asking consumers to sign partially blank or partially complete forms and documents.
- Requesting that consumers assign refunds to the preparer.
- Charging fees based upon refund amounts.
- Having a customer's refund mailed to the preparer.

Civil penalties for violations generally range from \$260 for first time violations to \$750 for third and subsequent violations.

Tax preparers must also comply with the City's Consumer Protection Law ("CPL"), which prohibits deceptive business practices by *all* businesses in New York City. On January 24, 2022, violations of the CPL will range from \$350-\$2,500 per violation.

Importantly, these longstanding and reasonable regulations have not driven tax preparers out of business or driven the industry out of New York City.

### **DCWP's Tax Preparer Enforcement**

DCWP staff employ a two-pronged enforcement strategy: inspections conducted at brick-and-mortar locations during the tax season that can result in summonses issued by DCWP inspectors ("field inspections") and complaint-driven investigations conducted by attorneys that may be resolved through mediation or by the filing of a summons at the City's administrative tribunal. Field inspections are focused on lower income areas where consumers tend to be more vulnerable to predatory business practices and on areas where complaint and violation history shows more predatory activity. Summonses from these inspections resulted in \$123,328 in civil penalties in 2020 and \$86,525 in civil penalties so far in 2021.

In 2020, DCWP received 147 complaints about tax preparers and, in 2021, we have received 208 to date. Many of these complaints are mediated by our Consumer Services Unit, which may refer consumers to entities like the IRS Taxpayer Advocate if the issue is not within our jurisdiction or cannot otherwise be resolved. Complaints about more complex issues, like those involving theft of consumer refunds, misuse of financial products like RALs, or deceptions about tax-related relief programs like federal stimulus payments, are referred to an attorney in DCWP's General Counsel Division for investigation. These investigations may result in the filing of a summons with the City's administrative tribunal, seeking fines and/or restitution, or a consent order that includes injunctive relief.

For example, in September 2021, DCWP settled a case against a Liberty Tax location in Brooklyn that deducted hidden fees from two consumers' federal stimulus payments. The consumers, a senior citizen, and her brother on Supplemental Security Income, did not receive their \$600 stimulus checks because they did not file taxes in 2020. Liberty Tax told both consumers that filing their federal tax returns for the \$600 stimulus as a "Recovery Rebate Credit" would be free. However, Liberty Tax took \$150 from one stimulus payment and \$87 from the other by using a third-party refund transfer account without the consumers' knowledge or consent. After issuing a summons, a DCWP attorney settled the matter by consent order, obtaining full restitution of the fees, \$2,000 in civil penalties, and robust staff training requirements regarding up-front disclosure of fees and terms related to refund transfer products.

It would be difficult for DCWP to protect consumers from predatory behavior or have a substantive impact on bad actors in the tax preparation industry if the only result of bad behavior was a warning. The absence of the threat of penalties would also hamper DCWP's ability to obtain even non-monetary, injunctive relief because, again, there would be no actual consequences for bad behavior, thus no incentive for the industry to correct that behavior. While offering information to the customers is vitally important and a huge part of DCWP's tax preparation industry oversight, it is not, by itself, enough to truly protect consumers or have a real impact on predatory behavior.

We hope that Council will consider this when working through the final version of Bill Number O-21-77.