The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 238 Engrossed

2018 Regular Session

Morrell

<u>Proposed law</u> authorizes the secretary of revenue to file suit to enjoin a preparer from further engaging in any prohibited conduct.

Proposed law provides a list of prohibited conduct for preparers.

- (1) Preparation of any return or claim for refund that includes an understatement of a taxpayer's liability due to an unreasonable position.
- (2) Preparation of any return or claim for refund that includes an understatement of a taxpayer's liability due to willful or reckless conduct.
- (3) Failure to furnish copy of return or claim for refund, where required.
- (4) Failure to sign return or claim for refund, where required.
- (5) Failure to furnish an identifying number, where required.
- (6) Failure to retain copies of records, where required.
- (7) Failure to file correct information returns, where required.
- (8) Failure to be diligent in determining eligibility for tax benefits, where required.
- (9) Negotiation of a check issued to a taxpayer by the Department of Revenue without the permission of the taxpayer.
- (10) Engagement in any conduct subject to any criminal penalty provided by Title 47 of the Louisiana Revised Statutes of 1950.
- (11) Misrepresentation of the preparer's eligibility to practice before the Department of Revenue or otherwise misrepresented the preparer's experience or education.
- (12) Guaranteeing the payment of any tax refund or the allowance of any tax credit.
- (13) Engagement in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws of the state of Louisiana.

Proposed law authorizes a court to enjoin a paid preparer from preparing any return, report, claim

for refund, or other claim for this state if the court finds that a preparer has continually or repeatedly engaged in any conduct and that an injunction to enjoin the conduct will not be sufficient to prevent the preparer from interfering with the administration of the state's tax laws.

<u>Proposed law</u> provides that suspension from practice before the IRS or another state establishes a prima facie case for a court to enjoin a paid preparer from preparing tax returns for this state.

<u>Proposed law</u> defines "preparer" as a person who prepares all or a substantial portion of a return, report, claim for refund or other claim or who employs others to prepare tax returns or claims for refund that is filed with the secretary of the Dept. of Revenue.

Effective July 1, 2018.

(Adds R.S. 47:1574.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

- 1. Applies to preparers of any return, report, claim for refund, or other claim.
- 2. Provides definition of "preparer".
- 3. Changes effective date to July 1, 2018.