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ACLU OF RI POSITION: AMEND

TESTIMONY ON 26-S 2810, RELATING TO TAXATION -- TAX PREPARERS ACT OF 2013 May 26, 2026

The ACLU of Rhode Island has no position on this bill's goal of prohibiting so-called ghost tax preparers. However, we do urge the inclusion of a one-word amendment to ensure the bill does not overreach in its application.

Proposed section 44-68-3(c) would bar a tax return preparer from being a ghost preparer or "*engag[ing] in any activity that facilitates the use of a ghost preparer.*" (emphasis added) Section 44-68-4(c)(2) goes on to authorize imposition of a \$1,000 fine if:

"[u]pon a determination by the tax administrator that a tax return preparer *willfully* misled or committed fraud against a taxpayer, or *purposefully* circumvented tax laws administered by the tax administrator, or *violated any provision of § 44-68-3...*"

This language inadvertently has the effect of treating individuals who purportedly "facilitate" the use of a ghost preparer (the last clause) more harshly than the ghost preparers themselves. That is because there is no requirement that "facilitation" be either willful or purposeful, a required condition contained in 44-68-4(c)(2) to convict a person of direct fraud or circumvention of the law.

We note that this inequitable outcome is addressed in the House version of the bill, H-7613A, with a revised definition, and we urge that the Senate bill be similarly amended.

Thank you for considering our views.