

Proposed Guidance Regarding Marketing of Refund Anticipation Loans (RALs) and Certain Other Products in Connection With the Preparation of a Tax Return

On March 21, 2008, the U.S. Small Business Administration's Office of Advocacy (Advocacy) filed a comment letter on an advance notice of proposed rulemaking (ANPRM) issued by the Department of Treasury (Treasury) and the Internal Revenue Service (IRS), *Guidance Regarding Marketing of Refund Anticipation Loans (RALs) and Certain Other Products in Connection With the Preparation of a Tax Return* [73 Fed. Reg. 1131 (January 7, 2008)]. Advocacy stands ready to assist Treasury and the IRS to comply with the Regulatory Flexibility Act (RFA) in the development of the proposed rules related to RALs. A complete copy of Advocacy's comments may be accessed at <http://www.sba.gov/advo/laws/comments/>.

- Treasury and the IRS are concerned that RALs and certain other products may provide tax return preparers with a financial incentive to take improper return positions in order to inappropriately inflate refund claims.
- The ANPRM, if finalized, would affect small businesses that market RALs and other similar products.
- The ANPRM details rules that Treasury and the IRS are considering for a proposed regulation that would separate the act of return preparation from the act of marketing or purchasing certain financial products. The proposal that Treasury and the IRS are contemplating would prohibit the use of information obtained by a tax return preparer, obtained during the tax-preparation process, for the purpose of marketing a RAL or similar products or services.
- Advocacy is committed to assisting Treasury and the IRS in the completion of the factual basis for the certification or an initial regulatory flexibility analysis for the purposes of developing a notice of proposed rulemaking related to RALs.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advo> or contact Assistant Chief Counsel Dillon Taylor by email at dillon.taylor@sba.gov or by phone at (202) 401-9787.