

Tax Notes Today Quotes Christopher Rizek on New Legislative Fix to Loving, Ridgely on Horizon

04.01.2015

Tax Notes Today

Tax Notes Today quoted Christopher S. Rizek regarding new legislative proposals to strengthen the IRS's authority to regulate paid return preparers following the decisions in *Loving v. IRS* and *Ridgely v. Lew*. The article specifically mentioned the Taxpayer Protection and Preparer Proficiency Act of 2015 that would give Treasury the explicit authority to regulate the practice of tax returns. For the complete article, please visit *Tax Notes Today's* website (subscription required).

Excerpt taken from the article "New Legislative Fix to Loving, Ridgely on Horizon, Hawkins Says" by Amy S. Elliott for Tax Notes Today.

Christopher S. Rizek of Caplin & Drysdale Chtd. said Loving is "why everyone has decided that new legislative authority is required." But Rizek added that in view of Ridgely, Wyden's proposal is "just a little tweak" and is "not the way to go."

Expansive View

But Rizek, who represented the plaintiff in *Ridgely*, had a somewhat different interpretation. In *Ridgely*, the U.S. District Court for the District of Columbia held that "the IRS lacks the authority to regulate the preparation and filing" of ordinary refund claims under Circular 230 section 10.27, which prohibits tax practitioners from charging contingent fees except under specific circumstances.

The *Ridgely* court reasoned that section 330 of title 31 gave Treasury the authority to regulate only some activities -- namely those involving representation in a contested proceeding. "There's lots of Circular 230 that does other stuff," Rizek said.

Rizek stressed that while tax attorneys and accountants should plan on OPR having authority to regulate them, "if you screw up, you've got another defense."

Attorneys

Christopher S. Rizek

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