

March 30, 2000

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Re: Proposed Privacy Regulations Under Title V of the Gramm-Leach-Bliley Act

Ladies and Gentlemen:

Cendant Corporation, on behalf of its wholly-owned subsidiary Jackson Hewitt Inc., welcomes the opportunity to provide comments on the proposed rules to implement Title V of the Gramm-Leach-Bliley Act (the "Act"). Jackson Hewitt Inc. is the fastest growing tax preparation service in the Nation. Through its franchisees, Jackson Hewitt Inc. operates approximately 3000 locations across the country. Accordingly, Cendant has a strong interest in the proposed privacy rules and the potential impact that the regulations will have on our Jackson Hewitt subsidiary, its franchisees and customers.

Section 313.1(b) – Scope

In the preamble to the proposed regulations, the Commission states at Section 313.1:

"The principal type of entity subject to the Rule is a "financial institution", a term which is very broad under the Act. Section 509(3) defines the term to mean "any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 USC 1843(k)). Those "financial activities" include not only a number of traditional financial activities specified in Section 4(k) itself, but also those activities that the Federal Reserve Board has found to be closely related to banking or other financial operations abroad. The Commission invites comment on whether the activities as set forth in the Board regulations ... may be interpreted narrowly under the language of these regulations."

In response to this invitation to comment, Cendant, for the reasons set forth below, urges the Commission to narrowly define the term "financial institution" by excluding tax preparation services from the definition of a "financial institution" under the proposed regulations.

Section 313.1 of the proposed regulations identifies its three general purposes: i) disclosing the financial institution's privacy policies to its customers, ii) describing the conditions that must be met before a financial institution may provide information relating to a consumer to a third party and iii) providing a method for the consumer to "opt out" of such third party disclosures. Existing law addresses and exceeds all of these purposes with respect to transactions involving a tax preparer.

Internal Revenue Code and Regulations

While the imposition of a structure to protect a consumer's nonpublic personal information may be new to many activities, tax preparers and their customers have operated under a much more rigorous statutory standard since 1971. See 26 USC Sections 7216 and 6713.

Section 7216 of the Internal Revenue Code provides, in part, that:
"Any person who is engaged in the preparing, or providing services in connection with the preparation of, returns of the tax imposed by chapter 1, or any person who for compensation prepares any return for any other person, and who knowingly or recklessly –

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,
shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$1000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

In addition, Section 7216 of the Internal Revenue Code provides, in part, that:

"If any person who is engaged in the business of preparing, or providing services in the connection with the preparation of, returns of tax imposed by chapter 1 or any person who for compensation prepares any such return for any other person, and who –

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other to prepare, assist in preparing, any such return,

shall pay a penalty of \$250 for each such disclosure or use, but the total amount imposed under this subsection on such a person for any calendar year shall not exceed \$10,000.

Regulations adopted by the Internal Revenue Service of the Department of the Treasury pursuant to 26 USC Section 7216 provide that before a tax preparer can provide any information to a third party, the tax preparer needs to have the tax payer's written consent. Further, written consent may also be required prior

to disclosure to certain affiliates of the tax preparer. The Internal Revenue Service regulations prescribes a time frame in which the consent must be obtained and that the consent applies only to disclosure for a specified purpose. Examples used in the Internal Revenue Service regulation make clear that written taxpayer consent is required prior to sharing any information with providers of generally accepted "financial" services, i.e. loans, insurance and mutual funds. See 26 CFR 301.7216-3.

While there are exceptions to the requirements for taxpayer consent prior to disclosure, they are very tightly circumscribed. The exceptions are generally limited to disclosure for administration of the tax laws and court or administrative orders. See 26 CFR301.7216-2.

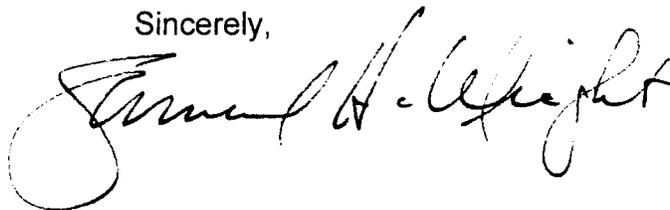
As demonstrated by the foregoing, almost thirty years ago, Congress recognized the need to provide assurance to consumers that the information that they share with tax preparers would be treated in a highly confidential manner. The laws provide both civil and criminal penalties for any tax preparer that does not conduct business in accordance with the prescribed high standards. The regulations adopted by the Internal Revenue Service implementing the statutes require specific written taxpayer consent prior to any information sharing with some affiliates of the tax preparer and all third parties. By any objective measure, the existing laws and regulations applicable to tax preparers provides more protection to a consumer's nonpublic personal information than the Act or the Commission's proposed regulations.

Exemption of Tax Preparers from the Definition of Financial Institution

Given the existing federal tax laws and regulations described above, consumers' nonpublic personal information is already adequately protected under a statutorily mandated system that exceeds the requirements of the GLB Act. The system has operated effectively for almost thirty years. There is no benefit to consumers using the services of a professional tax preparer to impose new requirements contemplated by the proposed regulations in addition to the existing regulatory structure. To do so would only result in adding cost to the tax preparer and confusion to consumers. Cendant urges the Commission to exclude tax preparers from the definition of financial institution for purposes of the proposed regulations.

Thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel H. Wright". The signature is written in a cursive style with a large, looping initial "S".