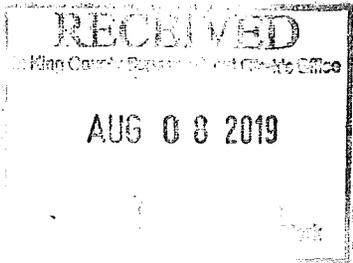


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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

IN RE: FRANCHISE NO POACHING
PROVISIONS
(H&R BLOCK TAX SERVICES LLC)

NO. **19-2-20766-3 SEA**
H&R BLOCK TAX SERVICES LLC
ASSURANCE OF DISCONTINUANCE

The State of Washington (State), by and through its attorneys, Robert W. Ferguson, Attorney General, and Rahul Rao, Assistant Attorney General, files this Assurance of Discontinuance (AOD) pursuant to RCW 19.86.100.

I. PARTIES

1.1 In August 2018, the Attorney General initiated an investigation relating to the use of certain provisions in franchise agreements entered into by H&R Block Tax Services LLC (“Tax Services”).

1.2 Tax Services is a Missouri limited liability company with its principal place of business in Kansas City, Missouri. Tax Services is in the business of licensing others to operate tax return preparation offices under the “H&R BLOCK” service mark.

1.3 For purposes of the binding nature of this AOD, Tax Services shall include any one acting on its behalf in furtherance of the “H&R BLOCK” franchise system, including its directors, officers, managers, agents acting within the scope of their agency, and employees as

1 well as its successors and assigns, plus its controlled subsidiaries, affiliates, and joint ventures,
2 but not its franchisees.

3 II. INVESTIGATION

4 2.1 There are 167 tax return preparation offices in the state of Washington leased by
5 Tax Services' affiliate H&R Block Enterprises LLC. Tax Services itself does not own or lease
6 any tax return preparation offices in the state of Washington. There are 61 tax return preparation
7 offices owned by independent franchisees of Tax Services in the state of Washington.

8 2.2 From July 2015 until April 2018, Tax Services included language in certain
9 franchise agreements that it entered into providing that the franchisee would not solicit for
10 employment any person employed by Tax Services or by any franchisee of Tax Services ("no-
11 poach provisions"). Specifically, Section 12.2(A)(3) of the franchise agreement provided that
12 during the term of that agreement "neither Franchisee nor any of Franchisee's Associates will,
13 without [Tax Services'] prior written consent . . . [s]olicit for employment any person who is
14 employed by [Tax Services] or by any other franchisee of [Tax Services]". In addition, Section
15 12.2(B)(3) of the franchise agreement contained restrictions for a specified period following the
16 expiration or termination of the franchise agreement.

17 2.3 Beginning in April 2018, Tax Services voluntarily removed the provisions set
18 forth in paragraph 2.2 from all of its new franchise agreements and advised all of its franchisees
19 whose franchise agreements contained those provisions that Tax Services would not seek to
20 enforce those provisions of their franchise agreements.

21 2.4 The Attorney General asserts that Tax Services' use of the provisions set forth in
22 paragraph 2.2 in certain franchise agreements for the period between July 2015 and April 2018
23 constituted a contract, combination, or conspiracy in restraint of trade in violation of the
24 Consumer Protection Act, RCW 19.86.030.

25 2.5 Tax Services expressly denies that the inclusion of the provisions set forth in
26 paragraph 2.2 in certain of its franchise agreements between July 2015 and April 2018

1 constituted a contract, combination, or conspiracy in restraint of trade in violation of the
2 Consumer Protection Act, RCW 19.86.030, or any other law or regulation, and expressly denies
3 that it has engaged in any conduct that constitutes a contract, combination, or conspiracy in
4 restraint of trade. Tax Services is entering into this AOD to avoid protracted and expensive
5 litigation. Pursuant to RCW 19.86.100, neither this AOD nor its terms shall be construed as an
6 admission of law, fact, liability, misconduct, or wrongdoing on the part of Tax Services or its
7 franchisees. No third party in any other proceeding may use this AOD.

8 **III. ASSURANCE OF DISCONTINUANCE**

9 3.1 Subject to paragraphs 2.5 above, Tax Services agrees:

10 3.1.1. Tax Services will continue not to include the provisions set forth in
11 paragraph 2.2 in any of its future franchise agreements;

12 3.1.2. Tax Services will continue not to enforce the provisions set forth in
13 paragraph 2.2 in any of its existing franchise agreements, and will not seek to intervene or defend
14 in any way the legality of those provisions in any litigation in which such a franchisee may claim
15 third-party beneficiary status rights to enforce those provisions; however, Tax Services may fully
16 defend its conduct and prior practices in any lawsuit in which it or its franchisees may be named
17 as a party;

18 3.1.3. Tax Services will notify all of its Franchise Leadership Council of the
19 entry of this AOD and provide them with a copy;

20 3.1.4. Tax Services will notify the Attorney General's Office if it learns of any
21 effort by any of its franchisees to enforce the provisions set forth in paragraph 2.2 in any of Tax
22 Services' existing franchise agreements.

23 3.2 Within 90 days of the entry of this AOD, Tax Services will have attempted to
24 amend all of its existing franchise agreements with franchisees in the state of Washington that
25 contain the provisions set forth in paragraph 2.2 to remove those provisions from those
26 agreements. If any such franchisee is unwilling to amend its franchise agreement prior to the 90-

1 day deadline, Tax Services shall provide the name and address of the franchisee and the name
2 and address of the franchisee's registered agent to the Office of the Attorney General. Tax
3 Services will not be under any obligation to offer any consideration—monetary or otherwise—
4 to a franchisee in order to induce the franchisee to enter into the amendment or to take any action
5 against a franchisee if it refuses to do so. A decision by a franchisee not to amend its franchise
6 agreement, or not to do so within the period set forth in this AOD, shall not mean that Tax
7 Services has not complied with its obligations under this AOD.

8 3.3 To the extent any existing franchise agreements are renewed or renegotiated
9 during the ordinary course of business, Tax Services will amend any such franchise agreements
10 to remove the provisions set forth in paragraph 2.2 from those agreements.

11 3.4 Within 60 days of the conclusion of the time periods referenced in this section
12 III, Tax Services will submit a declaration to the Attorney General's Office signed under penalty
13 of perjury stating that all provisions of this AOD have been satisfied.

14 **IV. ADDITIONAL PROVISIONS**

15 4.1 This AOD is binding on, and applies to, Tax Services and anyone acting on its
16 behalf in furtherance of the "H&R BLOCK" franchise system, including its directors, officers,
17 managers, agents acting within the scope of their agency, and employees, as well as their
18 respective successors and assigns, plus its controlled subsidiaries, affiliates, and joint ventures,
19 or other controlled entities through which Tax Services may now or hereafter act with respect to
20 the conduct alleged in this AOD, but not its franchisees.

21 4.2 Tax Services believes the provisions set forth in paragraph 2.2 are lawful and pro-
22 competitive and under no circumstances caused any injury. This is a voluntary agreement, and
23 it shall not be construed as an admission of law, fact, liability, misconduct, wrongdoing, or a
24 violation for any purpose. By entering into this AOD, Tax Services neither agrees nor concedes
25 that the claims, allegations and/or causes of action which have or could have been asserted by
26 the Attorney General have merit, and Tax Services expressly denies any such claims, allegations,

1 and/or causes of action. However, proof of failure to comply with this AOD shall be *prima facie*
2 evidence of a violation of RCW 19.86.030, thereby placing upon the alleged violator of this
3 AOD the burden of defending against imposition by the Court of injunctions, restitution, costs
4 and reasonable attorney's fees, and appropriate civil penalties under Washington's Consumer
5 Protection Act.

6 4.3 Tax Services will not, nor will it authorize any of its officers, employees,
7 representatives, or agents to, state or otherwise contend that the State of Washington or the
8 Attorney General has approved of, or has otherwise sanctioned, Tax Services' inclusion of the
9 provisions set forth in paragraph 2.2 in certain of its franchise agreements between July 2015
10 and April 2018.

11 4.4 This AOD resolves all issues raised by the State of Washington and the Antitrust
12 Division of the Attorney General's Office under the Consumer Protection Act and any other
13 related statutes pertaining to the acts set forth in paragraph 2.1 – 2.4 above that may have
14 occurred before the date of entry of this AOD and concludes the investigation into this matter.
15 Subject to paragraph 4.2, the State of Washington and the Antitrust Division of the Attorney
16 General's Office shall not file suit or take any further investigative or enforcement action against
17 Tax Services or against any of its franchisees who enter into an amendment of their franchise
18 agreements as described in Section 3.2 above, with respect to the acts set forth above that
19 occurred before the date of entry of this AOD (for Tax Services) or before the date of the
20 franchise agreement amendment (for franchisees).

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APPROVED ON this _____ day of _____, 2019.

JUDGE/COURT COMMISSIONER

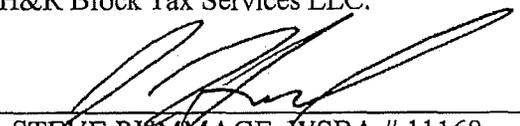
Presented by:

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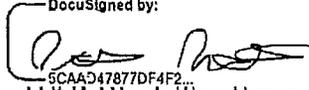
Agreed to and approved for entry by
H&R Block Tax Services LLC:



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DocuSigned by:



SCAA04787DF4F2...
H&R Block Tax Services LLC
Title: Vice President Franchise operations
Date: July 24, 2019