September 16, 2026

VIA ELECTRONIC SUBMISSION
Samuel A.A. Levine, Commissioner
New York City Department of Consumer and Worker Protection
42 Broadway
New York, New York 10004
Rulecomments@dcwp.nyc.gov

Re: Proposed Rules Relating to Tax Preparation Fee Disclosures; Reference Nos. DCWP-81 and 2026 RG 055

Dear Commissioner Levine:

We submit these comments on behalf of a tax-preparation franchisor whose brand is used by independently owned and operated neighborhood businesses in New York City. Those local franchise businesses support clear, timely, and honest disclosure of tax-preparation fees. They do not support hidden fees, bait-and-switch pricing, or charging a consumer for a service the consumer did not authorize.

The proposed rule nevertheless converts that sound principle into a procedure that is circular, paper-bound, and operationally unworkable. It would require a preparer to identify every service and state the highest possible price before the preparer may perform the intake and document review needed to know what services the taxpayer requires. It then requires a new printed statement and another wet signature whenever ordinary review reveals another schedule, form, state return, or service. For remote consumers, the rule can require a trip to an office for no purpose other than signing a piece of paper that could be authenticated more reliably online.

A tax return is not an item selected from a shelf. Its scope emerges from the unique taxpayer's facts and documents. Requiring a final ceiling before those facts may be examined is like requiring a mechanic to quote the maximum repair bill before opening the hood and then requiring the customer to return to the shop and sign a new sheet each time the diagnosis reveals another necessary part. The predictable result is not better information. It is inflated worst-case estimates, repeated interruptions, higher prices, reduced access to remote service, and more technical violations by honest small businesses.

At bottom, the proposal commits a basic category error: it treats tax preparation like a product with a price tag already attached, when it is a professional service whose scope can be determined only by examining the taxpayer's circumstances. It is the equivalent of requiring a cashier to announce the final total before being permitted to scan a single item in the customer's cart. The only safe answer would be a number high enough to cover anything that might be there. That is not meaningful transparency; it is guesswork dressed up as disclosure.

But meaningful disclosure does not require an unprecedented compliance regime. We are not aware of any other state or municipality in the country that imposes anything remotely comparable to this proposed combination of pre-service highest possible estimates, mandatory delivery in duplicative formats, physical signatures, and repeated re-estimates as the return develops. New York City should hesitate before making its local small businesses the testing ground for a uniquely burdensome system that no other jurisdiction has found necessary, and that promises substantial cost and disruption without a corresponding consumer benefit.

DCWP should withdraw and re-propose the rule after meaningful operational consultation with tax preparers or substantially revise proposed 6 RCNY § 5-174 before adoption. At minimum, the final rule should: (1) exclude intake and preliminary review from the definition of providing services; (2) measure estimates by information known or reasonably available at the time; (3) recognize disclosed pricing ranges and maximums; (4) require a revised authorization only when a charge will exceed an already accepted maximum or the consumer affirmatively selects a new optional service; (5) permit electronic signatures and consumer-selected delivery formats; and (6) provide a first-season education and cure period with protection against penalty stacking.

I. The Proposed Sequence Requires the Answer Before the Necessary Inquiry

Proposed § 5-174(a) requires the Estimate of All Fees before a preparer provides any services. The estimate must list every service that will be provided, identify every price-increasing factor and its maximum effect, and state the highest possible total. But the rule never defines when an intake interview, document inventory, or preliminary review becomes a service. That omission creates a threshold dilemma: the preparer cannot accurately price the return without learning the taxpayer's circumstances, but risks violating the rule by doing the work necessary to learn them.

The distinction is especially conspicuous because proposed § 5-173(b) requires the Consumer Bill of Rights before any discussion, while § 5-174(a) uses the different phrase before providing services. Those different words should be given different meanings. DCWP should confirm that the preparer may first provide the Bill of Rights, then conduct a no-charge intake and preliminary review, then give the estimate, and only then begin substantive return preparation.

Consider a taxpayer who initially reports only wage income. During intake, the taxpayer produces a Form 1099-K and explains that the income came from a side business. The preparer may then need to evaluate a Schedule C, business expenses, depreciation, self-employment tax, and perhaps an additional state filing. Under the proposal, it is unclear how far the preparer may examine those facts before crossing the undefined line into services—yet without that examination the preparer cannot know what to estimate. A disclosure rule should not make the fact-finding needed for an accurate disclosure legally hazardous.

DCWP should add the following sentence to § 5-174(a):

> *For purposes of this section, an initial consultation, intake interview, document inventory, or preliminary review undertaken to identify the services reasonably required and determine their estimated price does not constitute providing services.*

II. A Highest Possible Estimate Without a Knowledge Standard Produces Worse Information

Local Law 168 requires the highest possible total estimate when charges are estimated. Proposed § 5-174(a) goes further by demanding the highest possible amount for each estimated charge and the maximum amount by which every factor could increase that charge. Neither the statute nor the proposal anchors "possible" to information disclosed by the consumer or reasonably available to the preparer when the estimate is issued.

Read literally, the rule rewards defensive overestimation. A preparer who has not yet reviewed the return can protect against enforcement only by stating a theoretical worst-case price broad enough to capture undisclosed businesses, rental properties, investments, multistate activity, foreign assets, amended returns, and additional schedules. That number may be legally cautious, but it is economically meaningless. A ceiling built for every imaginable return tells the consumer almost nothing about the return actually presented.

The same defect would be obvious in any other setting. If an airline had to quote the highest possible fare before the passenger disclosed the destination, travel dates, number of travelers, or class of service, the airline could comply only by quoting the price of its most expensive conceivable itinerary. The number might be defensible as a maximum, but it would be useless to the traveler. The proposed rule produces the same result: a legally cautious ceiling that obscures, rather than clarifies, the price the consumer is likely to pay.

The better approach is a good-faith estimate based on the taxpayer's disclosures and a preliminary review, coupled with transparent unit prices, ranges, or maximums for reasonably foreseeable additions. If the estimate states that an additional state return will cost no more than a stated amount, the consumer has meaningful advance information. Requiring a second full estimate merely because that disclosed contingency occurs adds paper, not protection.

DCWP should clarify that:

> *The highest possible estimate is the highest amount reasonably anticipated from information supplied by the consumer and information reasonably available to the preparer when the estimate is issued. A preparer may satisfy the requirement by disclosing fixed prices, ranges, unit prices, or maximum amounts tied to identified services and pricing factors.*

III. Mandatory Re-Estimates for Ordinary Return Development Are Needlessly Disruptive

Tax preparation is iterative by design. Documents arrive in stages; interviews reveal additional facts; one form triggers another; and a taxpayer may remember an account, dependent, or state connection after work begins. Proposed § 5-174(d) would require the preparer to stop, recreate the entire Estimate of All Fees, print it, and obtain another signature on the physical copy before performing each newly identified service.

That rule is particularly impractical during the compressed filing season. A taxpayer using a secure remote workflow could upload documents, speak with the preparer by telephone, and sign electronically, yet still be required to travel to the office—or exchange paper by mail—because review revealed one additional schedule. A working parent, senior, consumer with limited mobility, or taxpayer temporarily outside the City gains no protection from that trip. The requirement simply delays completion.

The proposal also creates a second circularity. A preparer may have to analyze a newly supplied document to determine whether an additional service is required and what it will cost. But § 5-174(d) says the preparer must obtain a new physical signature before providing that additional service. The line between identifying the need and performing the service is undefined and will become an enforcement trap rather than a consumer safeguard.

Proposed § 5-174(d) effectively builds a paper tollbooth into the middle of the preparation process. Each time ordinary review identifies another required form or schedule, work must stop until a new document is generated, printed, transmitted to the consumer, physically signed, and returned. Multiplying signatures does not multiply understanding. It merely converts each routine development in the return into another opportunity for delay, abandonment, or technical noncompliance.

The original estimate should control when it already discloses the relevant pricing factor and a maximum charge. A short supplemental authorization should be required only if the proposed charge exceeds the previously accepted maximum or the consumer affirmatively selects a genuinely new optional product or service. In all events, no amount above the accepted maximum should be charged without consent, and the existing requirement for a final itemized receipt will show the actual amount paid.

DCWP should replace § 5-174(d) with the following:

> *A revised estimate is required only when the preparer proposes to charge more than a fixed price, range, unit price, or maximum amount previously disclosed and accepted, or when the consumer affirmatively selects a new optional product or service not included in the prior*

estimate. The revision may be provided as a supplemental statement and may be accepted by handwritten or electronic signature. Identification or preliminary evaluation of a newly disclosed matter does not constitute providing the additional service.

IV. The Wet Signature and Duplicate Paper Mandates Are Unnecessary and Legally Suspect

Local Law 168 says the statement must be signed. It does not say signed by hand, signed in ink, or signed on paper. It also says the statement must be made available in physical and electronic form. Proposed § 5-174(b) materially changes those words: every consumer must be given both a physical 8.5-by-11-inch sheet and an electronic copy, and consent must appear as a signature on the physical, printed copy.

That paper mandate is not an element of the statement's size, format, or content; it is a restriction on how consent may be obtained. It also sits uneasily with New York's Electronic Signatures and Records Act, which provides that, unless law specifically provides otherwise, an electronic signature may be used in place of a handwritten signature and has the same validity and effect. N.Y. State Technology Law § 304(2). Federal law likewise provides that a signature or contract may not be denied legal effect solely because it is electronic. 15 U.S.C. § 7001(a). Local Law 168 contains no express wet-signature exception.

New Yorkers would reject this logic in any other setting. Imagine requiring a yellow-cab driver, before pulling away from the curb, to quote the highest possible fare for every route traffic might require—and then to pull over, print a new estimate, and obtain the passenger's handwritten signature whenever an accident, street closure, or detour changed the route. The passenger would not be better informed; the ride would simply become slower, more expensive, and nearly impossible to complete. That is the proposed rule in practice: it mistakes repeated paperwork for transparency and operational obstruction for consumer protection.

Electronic signatures can record identity, time, date, document version, and an audit trail. Ink on a loose sheet proves less, not more. Nor does consumer protection require forcing paper on a consumer who chose a secure portal or forcing an electronic copy on a walk-in consumer who prefers paper. The statute's make available language should be implemented as meaningful consumer choice, with both formats available on request—not compulsory duplicate delivery in every transaction.

The final rule should permit a handwritten signature, signature pad, secure portal acceptance, or any other electronic signature valid under applicable law. It should also state that verbal explanation may occur in person, by telephone, or by video; that the consumer need only receive the chosen format unless both are requested; and that a scanned or electronically stored executed copy satisfies the three-year retention requirement.

V. Several Proposed Obligations Extend Beyond the Delegation in Local Law 168

Administrative Code § 20-740(c) authorizes the Commissioner to designate the size, format, and required elements of the fee statement. The proposal does much more. It mandates an oral presentation and question-and-answer procedure; prescribes a wet signature; requires repeated updated estimates; creates a separate prohibition on filing; imposes three-year record retention; and creates a rebuttable evidentiary presumption from failure to produce a record.

Those are substantive duties and enforcement consequences, not merely the size, format, or required elements of a statement. New York courts have invalidated rules of this same Department when they departed from the governing local law. As the First Department explained, an agency may promulgate rules to implement existing law but may not create a rule out of harmony with the statute. *Matter of New York City Pedicab Owners' Ass'n, Inc. v. New York City Department of*

Consumer Affairs, 61 A.D.3d 558, 558-59 (1st Dep't 2009) (quoting *Matter of Jones v. Berman*, 37 N.Y.2d 42, 53 (1975)).

DCWP should stay within the Legislature's chosen framework. At a minimum, it should explain the statutory basis for each duty not apparent from § 20-740(c), eliminate the wet-signature and serial re-estimate requirements, and avoid turning a missing record into presumptive proof of a different substantive violation. Failure to retain a record may support a recordkeeping violation; it does not logically establish that the consumer never received or signed the disclosure.

VI. The Proposal Does Not Minimize Compliance Costs and Gives No Meaningful Reason for Denying a Cure Period

The businesses that will implement this rule are not abstractions. Many are independently owned neighborhood offices operating on seasonal margins. They must reprogram software, create multilingual forms, modify remote workflows, train seasonal employees, buy and maintain printing capacity, develop storage procedures, and supervise compliance during the busiest weeks of the year. Those costs ultimately appear as higher preparation fees, fewer available appointments, or fewer businesses willing to serve returns whose complexity cannot be predicted at intake.

The Mayor's Office of Operations nevertheless certified that the proposal minimizes compliance costs. It did not identify any cost analysis, affected-business consultation, or less burdensome alternative. The certification also states only that a cure period is not practicable under the circumstances. That conclusion repeats the result without providing the why required by Charter § 1043(d)(1). The omission is especially striking because many violations will be technical—a missing duplicate copy, an electronic rather than wet signature, a total appearing on the final page of a multipage estimate, or a lost record years later—rather than an undisclosed or unauthorized fee.

The same lack of common sense would be obvious in any New York apartment building. No one would require a plumber in a prewar building to guarantee the highest possible repair price before being allowed to inspect the pipes—and then require the plumber to stop work and send the owner across town to sign another paper each time opening the wall revealed an additional corroded fitting. Faced with that rule, a rational plumber would quote an astronomical ceiling, refuse the work, or charge more to cover the bureaucracy. The leak would remain, the customer would pay more, and the paperwork would be immaculate. That is not consumer protection; it is a regulatory process detached from the work it purports to govern.

The penalty provisions also invite stacking. The same signature or delivery issue may be characterized as an improper or missing statement under Administrative Code § 20-740(c), improper content or distribution under § 5-174, and filing without written consent under § 5-66(b)(10). The proposal does not state whether one consumer interaction produces one violation or several. And the Statement of Basis and Purpose describes a $350 first-violation penalty while the proposed schedule states $375. That discrepancy must be corrected before adoption.

DCWP should publish a model form and detailed compliance guidance, allow at least 180 days after publication of the final rule for implementation, and provide an education-and-cure period through the first full filing season. A business that timely cures a first non-willful violation without consumer injury should receive a warning, not stacked penalties. Substantially identical conduct in one consumer transaction should be treated as one violation.

VII. Ambiguities Must Be Resolved Before Enforcement

The proposal leaves basic questions unanswered, each of which can generate penalties despite no consumer deception:

- May an estimate use more than one page, and may the total and signature appear on the final page?
- Does one spouse's authorization suffice for a jointly filed return, or must both spouses sign?
- Does delivery by email or secure portal satisfy the electronic-copy requirement?
- May the verbal explanation occur by telephone or video, and is a live explanation required if the consumer declines it after reviewing the statement?
- What event constitutes providing services, and how much preliminary document review is permitted before the estimate?
- How should a preparer disclose a bank product the consumer has not yet selected or for which eligibility has not yet been determined?
- Does an electronically stored copy satisfy retention, or must the original paper be preserved for three years?
- Why does proposed § 5-172 change qualification-sign lettering from language that may be one-quarter inch high to language that must be one-quarter inch high, a change unrelated to Local Law 168?
- What constitutes a separate "service" requiring its own itemized charge or revised estimate? Is preparation of the taxpayer's federal return one service, or must every form, schedule, worksheet, calculation, due-diligence step, and state filing be treated as a separate service? Without a definition, substantially identical returns could generate entirely different disclosures—and entirely different enforcement outcomes.
- The Notice describes the required statement as covering all services "on offer," Local Law 168 refers to services the preparer "intends to provide," and proposed § 5-174(a) refers to services that "will be provided." Which standard controls? Must the estimate list every optional product the office offers, only services the preparer expects the taxpayer to need, or only services the consumer has already selected?
- Who bears responsibility when a bank, software provider, filing service, or other third party establishes or changes a fee after the estimate is signed? Is the preparer required to guarantee the "highest possible" amount of a charge that the preparer neither imposes nor controls, and may the preparer rely on the third party's then-current published fee?
- What happens when the preparer determines that an additional service is necessary to prepare a complete and accurate return, but the consumer declines the additional charge? May the preparer stop work, withdraw from the engagement, and charge for work already authorized and performed? The proposed rule requires new consent but provides no lawful or practical exit when that consent is withheld.
- What conduct constitutes using a language to "attract customers" or "communicate with" a consumer? Does a single multilingual advertisement, social-media post, national website, greeting, or employee conversation require every fee estimate at that location to be translated into that language? Must a small business create and legally validate its own translation when DCWP has not supplied one, and who bears liability for an alleged translation error?
- Who is legally responsible for each required act when several people or entities participate in preparing the return? Is it the business entity, the electronic return originator, the individual who interviews the consumer, the employee who enters the data, the person who signs the return, or each of them? The rule's definition excludes certain employees when the employer signs the return, but it does not explain who must prepare the estimate, provide the oral explanation, obtain consent, retain the record, or answer for a violation in a team-based or franchise operation.
- Does § 5-174(d) require a revised Estimate of All Fees and another physical signature when the preparer identifies an additional form, schedule, or service but charges the consumer nothing for it? The text appears to require a new estimate whenever an additional service is identified, regardless of whether the price changes. Requiring work to stop for another wet

signature when the consumer will pay no additional amount would serve no conceivable fee-disclosure purpose and would confirm that the provision regulates paperwork for its own sake.

DCWP should answer these questions in the rule itself or in binding guidance issued before enforcement. Regulated businesses should not have to discover the Department's interpretation through penalties.

VIII. A Workable Rule Can Protect Consumers Without Obstructing Tax Preparation

Our client does not ask DCWP to choose between consumer protection and workable administration. The following framework accomplishes both:

- Give the Consumer Bill of Rights before any discussion, as existing law requires.
- Permit a free intake interview and preliminary document review solely to identify the likely scope and price.
- Provide a good-faith estimate based on information known or reasonably available, using fixed prices, ranges, unit prices, or maximum charges tied to disclosed contingencies.
- Allow the consumer to review, ask questions, and consent by handwritten or valid electronic signature in the delivery format the consumer selects.
- Require a supplemental authorization only for a charge above an accepted maximum or a newly selected optional service.
- Provide the existing final itemized receipt showing the exact charges actually imposed.
- Enforce material nondisclosure and unauthorized charges firmly, while allowing cure of first-time technical violations that caused no consumer harm.

That approach gives consumers information they can understand and use. The proposal as written instead measures compliance by paper volume and repeated signatures, even when the price was fully disclosed and the consumer knowingly agreed. Consumer protection should focus on whether the consumer understood the price and authorized the charge—not whether a neighborhood business made the consumer sign the right sheet of paper at every turn in an evolving professional engagement.

Conclusion

For these reasons, our client respectfully requests that DCWP withdraw and re-propose the rule after further stakeholder engagement or adopt the revisions described above. At minimum, the Department should clarify the intake safe harbor, adopt a knowledge-based estimate standard, recognize disclosed pricing ranges and maximums, narrow the re-estimate obligation, permit electronic signatures and records, prevent penalty stacking, publish a model form, and provide a meaningful implementation and cure period.

Our client and its New York City franchisees would welcome the opportunity to meet with the Department and demonstrate actual walk-in, drop-off, and remote tax-preparation workflows. A short operational review before adoption would reveal where the current text breaks down and would allow DCWP to preserve the law's consumer-protection objective without imposing avoidable costs and barriers on the very neighborhood businesses and consumers the City seeks to protect.

Respectfully submitted,

Counsel for Tax Preparation Franchisor