

**Office of Chief Counsel  
Internal Revenue Service  
memorandum**

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date: November 17, 2005

to: Deputy Director  
Office of Professional Responsibility

from: Special Counsel to the Associate Chief Counsel  
(Procedure & Administration)

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subject: Alabama Public Accountants

This memorandum responds to your inquiry regarding practice before the IRS by Alabama public accountants.

**ISSUE**

Whether individuals who hold current public accountant permits in Alabama, but who are not certified public accountants, are eligible to practice before the IRS by virtue of their public accountants' status?

**CONCLUSION**

Yes. The statute and regulations provide that an individual who is duly qualified to practice as a CPA in any State, territory, or possession of the United States or the District of Columbia may represent a person before the IRS. Under Alabama law, persons who hold an Alabama public accountant's permit have the same rights and privileges as a certified public accountant in that state. 2003 Ala. Acts 393, § 1. Thus, for purposes of Circular 230, public accountants who hold permits to practice accounting in Alabama are eligible to practice before the IRS by virtue of their public accountant's permit.

**FACTS**

Two categories of individuals may receive annual permits to practice public accountancy in Alabama: CPAs and public accountants. Under Alabama law, a CPA is a person holding a certificate issued under section 34-1-4 of the Code of Alabama, corresponding provisions or prior law, or the accountancy act or similar law of any other state or country. A public accountant is an individual qualified and accepted for registration under section 34-1-8 of the Code of Alabama.

## LAW AND ANALYSIS

Section 500(c) of Title 5 of the United States Code sets forth the general rules for practicing before United States administrative agencies. This section provides that an individual who is duly qualified to practice as a CPA in a State may represent a person before the IRS by filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts. The regulations governing practice before the IRS (Circular 230) mirror 5 U.S.C. § 500(c). Section 10.2(b) of Circular 230 defines a CPA, in relevant part, as any person who is duly qualified to practice as a CPA in any State. Section 10.3(b) further provides that any CPA who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS by filing with the IRS a written declaration that he or she is currently qualified as a CPA and is authorized to represent the party or parties on whose behalf he or she acts.

The decision to include CPAs within the class of professionals entitled to practice before the IRS by virtue of their State professional status is discussed in H.R. Rep. No. 1141, 89 Cong., 1st Sess. (October 25, 1965). In explaining why CPAs are not subject to the IRS's admission procedures, the House noted:

[T]here is a presumption that members in good standing of the profession[] of . . . certified public accountancy are of good moral character, and that surveillance by . . . State associations of certified public accounts [sic] will sufficiently insure the integrity of practice by such persons before the Internal Revenue Service. The cumbersome admission procedures of the Internal Revenue Service seem unwarranted in their impact on duly qualified . . . certified public accountants.

Id. at 4.

The Alabama Public Accountancy Act of 2003 provides for the issuance by the Alabama State Board of Public Accountancy of annual permits to engage in the practice of public accounting in the state. Ala. Code § 34-1-11(a) (2003). An annual permit to engage in the practice of public accounting may be issued, upon application<sup>1</sup>, to any person who holds a certificate of CPA under section 34-1-4 or who is registered as a public accountant under section 34-1-8, provided the person meets certain compliance requirements<sup>2</sup>. Ala. Code § 34-1-11(a). Only certified CPAs or registered public

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<sup>1</sup> Applications for renewal of the annual permit must be accompanied by evidence that the applicant satisfied the Board's continuing professional education requirements during the preceding year. Ala. Code § 34-1-11(c).

<sup>2</sup> To receive a permit, the CPA or public accountant generally must: (1) be a citizen of the United States or have declared the intent to become a citizen; (2) have attained the age of 19 years; (3) be of good moral character; and (4) meet the experience requirement of one year of experience in the practice of public accounting as defined by the accountancy board's rules and regulations. Ala. Code § 34-1-11(a)

accountants holding a valid permit may issue a report on financial statements or otherwise offer to render any attest service, as defined in section 34-1-2. Ala. Code § 34-1-16(9); see also Ala. Admin. Code 30-X-3-.03.

The Board grants a CPA certificate to any person who successfully passed the required uniform national CPA written examination and has a baccalaureate degree, including an accounting concentration, from an accredited college or university, provided the person is a citizen of the United States (or has declared his intent to become a citizen), attained the age of 19 years, and is of good moral character. Ala. Code § 34-1-4. Prior to October 2, 1978, residents of Alabama who were citizens of the United States (or had declared their intent to become citizens), attained the age of 19 years, and was of good moral character could, on application, register with the Board as a public accountant<sup>3</sup>. Ala. Code § 34-1-8(1). The Board stopped registering new applicants as public accountants on October 2, 1978, but persons registered with the Board as public accountants prior to October 2, 1978, may renew their permits to practice public accounting in the State annually, provided they meet the same continuing education requirements for CPAs. Ala. Code § 34-1-11(c).

Accordingly, while the state of Alabama no longer registers new applicants as public accountants, the State issues permits to practice public accounting to persons who registered as public accountants prior to October 2, 1978. These individuals must meet the same continuing education requirements imposed on CPAs. Public accountants also must comply with the same ethical standards and are subject to the same disciplinary actions as CPAs. Ala. Code § 34-1-12. Further, under Alabama law, any professional services required to be performed by a CPA may be performed by a CPA or public accountant. Thus, public accountants in the State of Alabama have the same rights and privileges as CPAs. Any person who holds a current public accountant's permit in the state of Alabama is, therefore, for practical purposes, a CPA and is eligible to practice before the IRS.

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

If you have any questions, please contact this office at 202-622-3400.

cc: Associate Chief Counsel (General Legal Services)  
Attn: Kirsten Witter

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and (e).

<sup>3</sup> From October 2, 1974 to October 1, 1978, the applicant also had to pass a written examination administered by the Board. Ala. Code § 34-1-8(2).

