

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

CC:PA:APJP:B02:GThomas
POSTNO-160681-05

date: February 6, 2006

to: Deputy Director
Office of Professional Responsibility

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

subject: Ohio Public Accountants

This memorandum responds to your inquiry regarding practice before the Service by Ohio public accountants.

Issue

Whether individuals who hold current public accountant permits in Ohio, but who are not certified public accountants, are eligible to practice before the IRS.

Conclusion

Yes. The statute and regulations provide that individuals who are duly qualified to practice as CPAs in any state, territory, or possession of the United States or the District of Columbia may represent a person before the IRS. Under Ohio law, registered and licensed public accountants have the same rights and privileges as CPAs. Thus, for purposes of Circular 230, registered public accountants who possess a permit to practice public accounting in Ohio are eligible to practice before the IRS.

Facts

Two categories of individuals may practice public accounting in Ohio: CPAs and public accountants. Under Ohio law, CPAs generally must be of good moral character, must satisfy certain educational and experience requirements, and must pass the CPA exam.¹ Public accountants are individuals who are qualified and accepted for registration under prior law.

¹ Individuals who are CPAs in other states may practice as CPAs in Ohio if the CPA possesses the qualifications specified in Ohio Rev. Code Ann. § 4701.07(A), (B), and (C), and what the board considers to be substantially equivalent of the applicable qualifications under Ohio Rev. Code Ann. § 4701.07(D). Ohio Rev. Code Ann. § 4701.06(E) (West, 2006). In addition, CPAs in foreign countries may be able to practice as CPAs in Ohio if they hold a certificate, license, or degree in a foreign country that constitutes a recognized qualification for the practice of public accounting in that country under section 4701.06. Id.

Law and Analysis

Section 500(c) of title 5 of the United States Code sets forth the general rules for practicing before the 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 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. 89-1141 (1965). In explaining why CPAs are not subject to the Service'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.

Section 4701.01(A) of the Ohio Revised Code defines the practice of public accounting as the performing or offering to perform any engagement that will result in the issuance of an attest report and, with respect to CPAs and public accountants, any other services involving the use of accounting or auditing skills as established by rules adopted by the accountancy board. Upon application, the accountancy board will issue Ohio permits to practice public accounting to holders of the CPA certificate or the PA registration. Ohio Rev. Code Ann. § 4701.10(A) (West 2006). Only persons who applied for registration as a public accountant, on or before April 16, 1993, may be registered and hold a permit to practice public accounting in Ohio. Ohio Rev. Code Ann. § 4701.07(F) (West 2006).

Section 4701.11 of the Ohio Revised Code provides that CPAs and public accountants shall be required to complete not more than 120 hours of continuing professional education programs over a three-year period. Section 4701.15 permits CPAs or public accountants to hire employees or assistants provided that any accounting or financial statement is issued only in the CPA's or public accountant's name. Furthermore, CPAs and public accountants may be disciplined and potentially lose their certificate or

registration, and license to practice for any violation of the conduct provisions contained in section 4701.16 of the Ohio Revised Code.

Thus, while Ohio stopped registering new applicants as public accountants on April 17, 1993, it permits those individuals registered as public accountants on or before April 16, 1993, to practice accountancy within the State, provided that these individuals meet the same ethical and continuing education requirements imposed on CPAs. Ohio also gives these individuals the same rights and privileges as CPAs. Registered public accountants who have a valid permit to practice public accounting in Ohio, therefore are, for practical purposes, CPAs. Accordingly, registered public accountants who possess a valid permit to practice public accounting in Ohio are eligible to practice before the IRS.

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

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