

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

CC:PA:RSGoldstein
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to: Acting Director
Office of Professional Responsibility
Attn: Michael Hahn

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

subject: Vermont Public Accountants

This memorandum responds to your inquiry regarding practice before the Internal Revenue Service by Vermont public accountants.

Issue

Whether individuals who hold current public accountant licenses in Vermont, 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 certified public accountant in any state, territory, or possession of the United States or the District of Columbia may represent a person before the IRS. Under Vermont law, a licensed public accountant has the same rights and privileges as a certified public accountant. Thus, for purposes of Circular 230, a licensed public accountant who holds a current license to practice public accounting in Vermont is eligible to practice before the IRS by virtue of his public accountant's license.

Facts

Vermont does not prohibit any person from offering or rendering to the public general bookkeeping and tax services, but only two categories of individuals may practice public accounting¹ in Vermont: Certified public accountants and registered public accountants. The number of registered public accountants in Vermont is 46, 8 of whom are active.²

¹ Vermont defines the "practice of public accounting" as the performance of, or the offering to perform, for a client or potential client one or more services involving the use of accounting or auditing skills including the issuance of reports on financial statements or one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Vt. Stat. Ann. tit 26, § 13 (2005).

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 section 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. Cong., 1st Sess. (October 25, 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 accountants [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.

Vermont prohibits persons or firms that are not licensed or registered under chapter 1, title 26 of the Vermont Statutes from issuing a report on financial statements of, or providing attest services for, any other person, firm, organization, or governmental unit. Vt. Stat. Ann. tit. 26, § 14(a) (2005). The Vermont Board of Public Accountancy issues licenses as a CPA under chapter 1, title 26 of the Vermont Statutes, to any person of good character who has completed the requisite educational and experience requirements and passed the uniform certified public accountants' examination. Vt. Stat. Ann. tit. 26, § 71a (2005). Similarly, the Board issues licenses as a registered public accountant to any person of good character who has completed the requisite educational and experience requirements and who passed the examination of the Accreditation Council for Accountancy and Taxation for all subjects except auditing, provided the person received conditional credit toward the registered public accountant examination on or before July 1, 2003. Vt. Stat. Ann. tit. 26, § 71b (2005). Persons

² We obtained this information from database downloads available on the Office of Professional Regulation web site on the webpage for the Vermont Secretary of State (<http://www.sec.state.vt.us>).

who qualified for licensure as a registered public accountant on or before July 1, 2003, may continue to hold themselves out as a registered public accountant and continue to use their license to practice public accounting in the State. Vt. Stat. Ann. Tit. 26, § 71b(c)(2005).

The Board renews public accountant (CPA and register public accountant) licenses biennially. Vt. Stat. Ann tit. 26 § 75(a) (2005). Applications for renewal must be accompanied by satisfactory evidence that the applicant has complied with the Board's continuing professional education requirements in addition to the required fee. Vermont Board of Public Accountancy R. § 8.1(C); see also, Vt. Stat. Ann tit. 26 §§ 54(b)(3) and 75(a)(2005). Registered public accountants have the same continuing professional education requirements as CPAs. See Vermont Board of Public Accountancy R. § 9.1.

Registered public accountants, like CPAs, may be disciplined and potentially lose their licenses to practice accounting if the Board finds them guilty of unprofessional conduct. Vt. Stat. Ann tit. 26 § 78(c)(2005).

Accordingly, Vermont will renew the licenses of those individuals who qualified for licensure as a registered public accountant on or before July 1, 2003, provided that the individuals meet the same continuing education requirements imposed on CPAs. Vermont also requires that registered public accountants comply with the same ethical standards as CPAs, and the State subjects them to the same disciplinary actions for unprofessional conduct. Vermont's registered public accountants accordingly have the same rights and privileges as CPAs. Thus, a person who holds an active license as a registered public accountant in Vermont is, for practical purposes, a CPA, and is, therefore, 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 at (202) 622-3400.

cc: Associate Chief Counsel (General Legal Services)
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