

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

CC:PA:RSGoldstein  
POSTN-113005-08

date: April 8, 2008

to: Michael R. Chesman, Director  
Office of Professional Responsibility  
Attn: Michael Hahn

from: Deborah A. Butler  
Associate Chief Counsel (Procedure & Administration)

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subject: Oregon Public Accountants

This memorandum responds to your request that we reconsider our December 2005 opinion on whether individuals who hold current public accountant permits in Oregon, but who are not certified public accountants, are eligible to practice before the IRS. For the reasons that follow, we conclude: 1) individuals who hold public accountant permits in Oregon who also qualified for, and applied to take, the Uniform CPA examination before January 1, 2002, are eligible to practice before the IRS; and 2) individuals who hold public accountant permits in Oregon, but who did not qualify for, or apply to take, the Uniform CPA examination before January 1, 2002, are not eligible to practice before the IRS.

Section 500 of title 5 of the United States Code sets forth the general rules for practicing before United States administrative agencies. Paragraph (c) of this section provides that an individual who is duly qualified to practice as a certified public accountant 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 certified public accountant, in relevant part, as any person who is duly qualified to practice as a CPA in any State.

The phrase “qualified to practice as a CPA” suggests that the authority to practice before the Service under 5 U.S.C. § 500(c) is not limited to persons who are CPAs in fact, but includes those persons who the State has authorized to perform the same services as CPAs.

Under Oregon law, only those persons holding a permit to practice public accounting may hold themselves out to the public as being qualified for the practice of public accounting. O.R.S. § 673.320. The Oregon Board of Accountancy issues permits to

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engage in the practice of public accountancy biennially to applicants who hold either a certificate of certified public accountant or public accountant's license. Or. Rev. Stat. § 673.150 (2003). Licensed public accountants may not perform audits, however, unless they first qualified and applied to take the Uniform CPA examination before January 1, 2002.<sup>1</sup> Or. Rev. Stat. §§ 673.100(d) and 673.103 (2003).

The Oregon State Board of Accountancy issues certificates of certified public accountant to any person who:

- holds a baccalaureate or higher degree from an accredited college or university and completed 150 or more semester hours or 225 or more quarter hours in the study of accounting, business, economics, finance, written and oral communications or other subjects determined to be appropriate for the accounting profession,
- one year of accounting experience under the direct supervision of a public accountant, certified public accountant or charter accountant, and
- passes examinations, determined by the board of accountancy, testing the person's knowledge of accounting and auditing and the code of professional ethics.

Or. Rev. Stat. §§ 673.040, 673.050 and 673.060 (2003). The Board of Accountancy has determined that the requirement that the applicant pass examinations testing the person's knowledge of accounting and auditing is met if the applicant for a certificate of certified public accounting takes and passes all sections of the Uniform CPA examination. Or. Admin. R. 801-010-0050 (2005).

Similarly, applicants for a public accountant's license must have a baccalaureate or higher degree from an accredited college or university and completed 150 or more semester hours or 225 or more quarter hours in the study of accounting, business, economics, finance, written and oral communications or other subjects determined to be appropriate for the accounting profession, one year of public accountancy experience, and pass examinations, determined by the board of accountancy, testing the person's knowledge of accounting and the code of professional ethics. Or. Rev. Stat. § 673.100 (2003). To satisfy the last requirement, applicants for a public accountant's license must take and pass the Uniform CPA examination, although current applicants are exempt from the auditing section of the Uniform CPA examination. Or. Rev. Stat. §§ 673.100(d) and 673.103 (2003).

Accordingly, while Oregon issues public accountants and CPAs permits to practice public accounting, the State has made a clear distinction between those persons who

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<sup>1</sup> The Oregon State Board of Public Accountancy encouraged all persons licensed as public accountants in the State in 2000 to obtain CPA certification prior to the effective date of the statute.

hold public accountant's licenses and who had not qualified for, applied to take, the Uniform CPA examination before January 1, 2002, and those who hold certificates of certified public accountant.<sup>2</sup> Licensed public accountants are prohibited from performing audits unless they qualified for, and applied to take, the Uniform CPA examination before January 1, 2002. Further, although applicants for certificates of certified public accountant are required to pass all sections of the Uniform CPA examination, new applicants for a public accountant's license are exempt from taking and passing the auditing section of this examination, unless they qualified for, and applied to take, the Uniform CPA examination before January 1, 2002.

A person licensed as a public accountant in the State of Oregon is not "duly qualified to practice as a CPA" unless such person qualified for, and applied to take, the Uniform CPA examination before January 1, 2002. Accordingly, any person who holds an Oregon public accountant's license, but who qualified for, and applied to take, the Uniform CPA examination before January 1, 2002, is eligible to practice before the IRS. In contrast, any person who holds an Oregon public accountant's license, but who has not qualified for, or applied to take, the Uniform CPA examination before January 1, 2002, and is not otherwise qualified to practice before the IRS, is not eligible to practice before the IRS.

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

cc: Associate Chief Counsel (General Legal Services)  
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<sup>2</sup> The Board of Public Accountancy has advised us that 44 individuals hold active public accountant licenses in the State. Two of these 44 individuals may not perform audits because they had not qualified for, or applied to take, the Uniform CPA examination before January 1, 2002. Persons interested in the status of an individual public accountant in Oregon (including the date on which their license was first granted) in Oregon can look up the licensee on the board's webpage at <http://egov.oregon.gov/BOA/>.