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MEMORANDUM FOR STANLEY OSHINKSKY  
CHIEF, LEADERSHIP AND EDUCATION  
OFFICE OF PROFESSIONAL RESPONSIBILITY

FROM: Mark S. Kaizen /s/ Stuart W. Endick for  
Associate Chief Counsel (General Legal Services)

SUBJECT: Eligibility of State Employee to be an Enrolled Agent

This responds to your request for advice regarding whether a Washington State employee may become an enrolled agent. As the employee's duties do not involve tax administration on behalf of the State, he is eligible to become an enrolled agent.

Treasury Circular 230, 31 C.F.R. part 10, governs practice before the Service, including the standards for who may represent others before the Service. Pursuant to section 10.3(g) of the Circular, no officer or employee of any State, or subdivision of any State, whose duties require him or her to pass upon, investigate or deal with tax matters for such State or subdivision, may practice before the Service if such employment may disclose facts or information applicable to Federal tax matters.

[REDACTED] is a Field Auditor for the [REDACTED] State Department of Labor & Industries. [REDACTED] states that in that capacity he conducts "compliance audits to ensure employers are reporting workers' hours in the correct risk classification and paying the correct premiums to the state." He reviews time cards, payroll summaries, invoices, unspecified IRS forms, and other records. [REDACTED] has also provided his position description which states that he is responsible for independently auditing an employer's financial records, business activities, and functions to establish premium liability and compliance with industrial insurance laws, rules, and regulations. Further, [REDACTED] educates employers, of their individual insurance premium reporting responsibilities. In the course of the audits, [REDACTED] is expected to review payroll records, which may include documents related to the withholding of Federal income and other employment taxes. b6

[REDACTED] duties do not require him to pass upon tax matters for the state of

PMTA: 00690

██████████. ██████████<sup>5</sup> ██████████<sup>7</sup> audit responsibilities focus on industrial insurance laws, rules and regulations, not on tax compliance. Although ██████████ duties may require him to review payroll documents which may impact Federal tax matters, his duties do not require him to pass upon, investigate or deal with tax matters for the State. Thus, it is our opinion that he is not prohibited by Treasury Circular 230 § 10.3(g) from applying for enrolled agent status.

If you have any questions, or if we can provide additional assistance, please contact Kirsten Witter of this office at (202) 283-7900.

cc: Richard S. Goldstein  
Special Counsel to the Associate Chief Counsel (Procedure & Administration)