

Office of Chief Counsel
Internal Revenue Service
memorandum

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to: Deputy Director
Office of Professional Responsibility


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

subject: Colorado Registered Accountants

This memorandum responds to your inquiry regarding practice before the Internal Revenue Service (IRS) by Colorado registered accountants.

Issue

Whether an individual who holds a current registered accountant certificate in Colorado, but who is not a certified public accountant (CPA), is eligible to practice before the IRS by virtue of possessing registered accountant 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 Colorado law, a registered accountant has the same rights and privileges as a CPA. COLO. REV. STAT. § 12-2-116 (2005). Thus, for purposes of Circular 230, a registered accountant registered and licensed in Colorado is eligible to practice before the IRS by virtue of possessing a registered accountant's license.

Facts

Two categories of individuals may practice public accountancy in Colorado: CPAs and registered accountants. Colorado law deems the categories synonymous as follows:

Any person who holds a certificate of registered accountant issued under the laws of this state shall be subject to all of the provisions this article. For the purposes of this article, certified public accountant and registered accountant shall be deemed synonymous and all references in this article

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to certified public accountants shall likewise refer and pertain to registered accountants.

COLO. REV. STAT. § 12-2-116 (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 on 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.

The Colorado Board of Accountancy issues a CPA certificate to any applicant who has passed a written examination and has satisfied the Board's (or another state's) educational requirements or otherwise satisfied the Board of the applicant's competence. COLO. REV. STAT. § 12-2-108 (2005). CPAs in Colorado must comply with the continuing education requirements of the Board and renew their certificates every two years. COLO. REV. STAT. § 12-2-119(5) (2005); Rule 5.3, R. COLO. ST. Bd. OF ACCT. (2005). Colorado law, however, does not require persons issued certificates prior to August 1, 1959, to renew their certificates. COLO. REV. STAT. § 12-2-114 (2005).

Under prior law, an individual could qualify to become a registered accountant in Colorado without an examination provided the individual satisfied certain standards of experience and community standing. COLO. REV. STAT. § 2-1-11 (Callaghan & Co.

1953) (repealed). Colorado stopped accepting applications for registered accountant certificates on July 1, 1937. Id. For purposes of the current accountancy statutes and regulations, the term "registered accountant" is synonymous with the term CPA. COLO. REV. STAT. § 12-2-116 (2005). Registered accountants also must comply with the same ethical standards and remain subject to the same disciplinary actions as CPAs.

Accordingly, while the state of Colorado stopped accepting applications to become registered accountants on July 1, 1937, registered accountants are permitted to practice accountancy in the state provided that they meet the same continuing education requirements as a CPA. Registered accountants also must comply with the same ethical standards and remain subject to the same disciplinary actions as CPAs. Thus, a person who holds an active Colorado registered accountant's certificate, is, for practical purposes, a CPA, and is, therefore, eligible to practice before the IRS. We note, however, that when we telephoned the Board to discuss their requirements for registered accountants, we were informed that there are no registered accountants currently on the board's roster of persons holding active certificates to practice accountancy in the state.

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.

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