

**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: New Jersey Public Accountants

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

Issue

Whether individuals who hold current public accountant permits in New Jersey, 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 CPA in any State, territory, or possession of the United States or the District of Columbia may represent a person before the IRS. Under the Accountancy Act of 1997, public accountants have the same rights and privileges as a certified public accountant in New Jersey. 1997 N.J. Laws c. 259 (West). Thus, for purposes of Circular 230, public accountants licensed to practice public accountancy in New Jersey are eligible to practice before the IRS by virtue of their public accountant's license.

Facts

Two categories of individuals may practice public accountancy in New Jersey: CPAs and public accountants. Further, any professional services required by law or regulation to be performed by a CPA may, by statute, be performed by a CPA or public accountant. N.J. Stat. Ann. § 45:2B-69 (West 2004).

Law and Analysis

Section 500(c) of Title 5 of the United States Code sets forth the general rules for practicing before 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

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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 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 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.

Under New Jersey law, individuals must be licensed to practice public accountancy. See N.J. Stat. Ann. § 45:2B-44 (West 2004). New Jersey generally issues CPA licenses to persons 18 years or older who have good moral character, and have at least 150 semester hours of education with a concentration in accounting or its equivalent from an accredited institution of higher education, provided that the person also passed all sections of an examination designated by the New Jersey Board of Accountancy. N.J. Stat. Ann. §§ 45:2B-49 and 45:2B-50. Beginning in 1997, New Jersey stopped issuing a public accountant's license to new applicants, but any person registered as a public accountant on April 6, 1998 may continue to hold the designation "public accountant" and is eligible to renew their license. N.J. Stat. Ann. § 45:2B-52. Further, any professional services required by law or regulation to be performed by a CPA may, by statute, be performed by a CPA or public accountant. N.J. Stat. Ann. § 45:2B-69.

CPAs and public accountants licensed to practice public accountancy in New Jersey must renew their license triennially. N.J. Stat. Ann. § 45:2B-58. As a condition for renewal of license, CPAs and public accountants must complete 120 credits of continuing professional education during the immediately preceding triennial period of licensure. N.J. Stat. Ann. § 45:2B-68. Moreover, CPAs and public accountants must comply with the same ethical standards and are subject to the same disciplinary actions for violations of these standards.

Therefore, while the state of New Jersey no longer registers new applicants as public accountants, it will renew public accountant licenses for those persons who held that designation on April 6, 1998, provided that these individuals meet the same continuing education requirements imposed on CPAs. Public accountants also must comply with the same ethical standards and are subject to the same disciplinary actions as CPAs. Further, any professional services required by law or regulation to be performed by a CPA may, by statute, be performed by a CPA or public accountant. Accordingly, a person who holds a current public accountant's license, 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 for our views.

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

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