

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

CC:PA:APJP:B02:GThomas
POSTNO-148629-05

date: December 5, 2005

to: Deputy Director
Office of Professional Responsibility

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

subject: Oregon Public Accountants

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

Issue

Whether individuals who hold current public accountant permits in Oregon, but who are not certified public accountants, are eligible to practice before the IRS.

Conclusion

No. 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 Oregon law, persons who hold an Oregon public accountant's license do not have the same rights and privileges as a certified public accountant in that State. Thus, Oregon public accountants are not duly qualified to practice as a CPA, and, therefore, are **not** eligible to practice before the IRS by virtue of their public accountant's permit.

Facts

Two categories of individuals may practice public accounting in Oregon: CPAs and public accountants. Under Oregon law, a CPA is a person holding a certificate issued under section 673.040 of the Oregon Revised Statutes. A public accountant is a person who is licensed under section 673.100 of the Oregon Revised Statutes. Or. Rev. Stat. § 673.010(16) (2003).

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 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 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. 89-1141 (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 Oregon law, persons holding a permit to practice public accounting in the State may provide attestation or compilation services for or issue a report on financial statements of any other person, firm, organization, or governmental unit. Or. Rev. Stat. § 673.320 (2003). The Oregon Board of Accountancy issues permits to 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). Certificates of certified public accountant are issued 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 auditing¹ and the code of professional ethics.

Or. Rev. Stat. §§ 673.040, 673.050 and 673.060 (2003).

Oregon requires applicants for a public accountant's license to 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). Applicants for a public accountant's license are exempt, however, from the auditing section of the Uniform CPA examination, and licensed public accountants may not perform audits unless they first qualified and applied to take the Uniform CPA examination before January 1, 2002.² 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 hold public accountant's licenses and those who hold certificates of certified public accountant.³ Applicants for certificates of certified public accountant are required to pass all sections of the Uniform CPA examination, but applicants for a public accountant's license are exempt from taking and passing the auditing section of the examination. Further, a public accountant is prohibited from performing an audit unless he qualified for, and applied to take, the Uniform CPA examination before January 1, 2002. Thus, a public accountant in the State of Oregon is not duly qualified to practice as a CPA. Accordingly, if a person is not otherwise eligible to practice before the IRS, he is not eligible to practice before the IRS because he holds a valid Oregon public accountant's license.

¹ The Oregon Board of Accountancy has determined that applicants for a certificate of certified public accountant must pass all sections of the Uniform CPA Examination. See Or. Admin. R. 801-010-0050 (2005).

² 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.

³ The Oregon State Board of Public Accountancy has advised us that there are currently 49 licensed public accountants in the State, and that only one of these individuals may not perform audits because he had not qualified for, or applied to take, the Uniform CPA examination before January 1, 2002.

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

cc: Associate Chief Counsel
(General Legal Services)
Attn: Kirsten Witter