

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

CC:PA:APJP:B02:NMMulleneaux
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date: March 13, 2007

to: Director, Office of Professional Responsibility
Attn: Michael Hahn

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

subject: Practice by Arkansas Public Accountants

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

ISSUE

Whether individuals who hold current public accountant licenses in Arkansas, but who are not certified public accountants (“CPAs”), 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 Arkansas law, persons who are licensed as Arkansas public accountants have the same rights and privileges as CPAs in that state. Thus, for purposes of Circular 230, public accountants who hold licenses to practice public accounting in Arkansas 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 Arkansas: CPAs and public accountants. Any attest or professional services required to be performed by a CPA may, by statute, be performed by a CPA or public accountant. Ark. Code Ann. §§ 17-12-103(12) & (13); 17-12-106(e), (f) & (g).

LAW AND ANALYSIS

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

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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 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 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 are licensed to perform the same services as CPAs in any State.

Under Arkansas law, it is unlawful for a person to engage in the practice of public accountancy as regulated by the Arkansas State Board of Public Accountancy (the Board) without holding a valid license or registration. Ark. Code Ann. §§ 17-12-103 (12) & 17-12-106(e), (f) & (g). The Board issues licenses to practice public accountancy to CPAs and public accountants. Ark. Code Ann. §§ 17-12-301 & 17-12-312. CPAs and public accountants must renew their licenses annually. Ark. Code Ann. §§ 17-12-504.

CPA licenses are granted by the Board to persons who have met certain education and experience requirements, including passing an examination in accounting and auditing. Ark. Code Ann. § 17-12-301 (a). Any person who qualified to register as a public accountant on July 1, 1975, may register to be licensed as a public accountant.¹ See Ark. Code Ann. § 17-12-312.

CPAs and public accountants must generally document 40 hours of acceptable continuing education each twelve-month period to renew their licenses to practice public accounting. Ark. Code Ann. § 17-12-502. Furthermore, CPAs and public accountants may be disciplined and potentially lose their license to practice for any one or more of the violations listed in Arkansas Code section 17-12-601.

Section 17-12-106(f) of the Arkansas Code provides that only licensed CPAs or public accountants may provide attest services. Attest is defined as “any audit or other engagement to be performed in accordance with the “Statements on Auditing Standards”; (b) a review of a financial statement to be performed in accordance with the “Statements on Standards for Accounting and Review Services”; and (c) an examination of prospective financial information to be performed in accordance with the “Statements on Standards for Attestation Engagements.” Ark. Code Ann. § 17-12-103(a)(2).

¹ As of May 30, 2006, the number of active public accountants in Arkansas was 75, and the number of inactive public accountants was 15. See Arkansas State Board of Accountancy, 2006 Directory of Certified Public Accountants and Public Accountants.

In conclusion, the state of Arkansas issues public accountant licenses to persons who qualified to register as public accountants on July 1, 1975. Ark. Code Ann. § 17-12-312. These individuals must meet the same continuing education requirements imposed on CPAs in order to keep their licenses current. Public accountants also must comply with the same ethical standards and are subject to the same disciplinary actions as CPAs. Further, attest services and any professional services required to be performed by a CPA may be performed by a CPA or public accountant. Thus, any person who holds a current public accountant's license in the state of Arkansas is, for practical purposes, a CPA and is 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.

cc: Associate Chief Counsel (General Legal Services)
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