

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

CC:PA:APJP:B02:JABremer
POSTN-100106-07

date: March 13, 2007

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

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

subject: Iowa Public Accountants

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

Issue

Whether an individual who holds current public accountant authority in Iowa, but who is not a certified public accountant (CPA), is eligible to practice before the IRS by virtue of possessing public accountancy authority?

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 Iowa law, however, a licensed public accountant does not have the same rights and privileges as a CPA. Iowa Code Ann. § 542.13 (West 2007). Thus, for purposes of Circular 230, a public accountant registered and licensed in Iowa is not eligible to practice before the IRS by virtue of possessing a public accountant's license.

Facts

Two categories of individuals may practice public accountancy in Iowa: CPAs and licensed public accountants. CPAs are holders of certificates issued by the Iowa Accountancy Examining Board (the "Board") pursuant to chapter 542 of subtitle 4 of Title XIII of the Iowa Code or corresponding provisions of prior law. Iowa Code Ann. § 542.5; § 542.6 (West 2007). Licensed public accountants are holders of a license to practice public accountancy under chapter 542 of subtitle 4 of Title XIII of the Iowa Code or corresponding provisions of prior law.¹ Iowa Code Ann. § 542.8 (West 2007).

¹ As of December 14, 2006, 91 persons held active public accountant licenses in Iowa according to the

Law and Analysis

Section 500 of title 5 of the United States Code sets forth the general rules for practicing before the United States administrative agencies. Paragraph (c) of 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 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 the State has authorized to perform the same services as CPAs.

Under Iowa law, any person owning a certificate as a certified public accountant may provide attestation or compilation services for or issue a report on financial statements of any other person, firm, organization, or governmental unit. Iowa Code Ann. § 542.13(1) (West 2007). CPA certificates are issued by the Board to any person demonstrating the requisite accounting qualifications. Iowa Code Ann. § 542.6 (West 2007). Certificates are granted to any person of good moral character who makes an application pursuant to section 542.6 and who satisfies the education, experience, and examination requirements of section 542.5.

Individuals who are not certificate holders may perform certain accounting functions if they obtain a valid public accountant license. Iowa Code Ann. § 542.13(1) (West 2007). Public accounting licenses are issued to applicants that satisfy the requirements of section 542.8, or to any applicant that holds a license as an accounting practitioner issued under the laws of Iowa in full force and effect on July 1, 2002, and has completed additional educational requirements as prescribed by the Board. Iowa Code Ann. § 542.8 (West 2007).

Although individuals may obtain a public accounting license without a certification, under Iowa law, only CPAs may render any attest services. Iowa Code Ann. § 542.13(1) (West 2007). "Attest" services are defined as any of the following services: (a) an audit or other engagement to be performed in accordance with the statements on accounting 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. Iowa Code Ann.

§ 542.3(1) (West 2007). Similarly, only a CPA may issue a report on financial statements of a person, firm, organization, or governmental unit. Iowa Code Ann. § 542.13(1) (West 2007).

A “licensed public accountant” means a person licensed by the board who does not hold a certificate as a certified public accountant, and who offers to perform or performs for the public any of the following services:

- a. Records financial transactions in books of record.
- b. Makes adjustments of financial transactions in books of record.
- c. Makes trial balances from books of record.
- d. Prepares internal verification and analysis of books or accounts of original entry.
- e. Prepares financial statements, schedules, or reports.
- f. Devises and installs systems or methods of bookkeeping, internal controls of financial data, or the recording of financial data.
- g. Prepares compilations.

Iowa Code Ann. § 542.3(11) (West 2007). Section 542.3(11) further provides that “[n]othing contained in this definition or elsewhere in this chapter shall be construed to permit a licensed public accountant to give an opinion attesting to the reliability of any representation embracing financial information.”

Accordingly, the State of Iowa has made a clear distinction between a licensed public accountant and a CPA. Thus, 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 Iowa public accounting license.

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If a disclosure question arises, please contact this office at (202) 622-3400.

cc: Associate Chief Counsel (General Legal Services)
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