

OREGON ADMINISTRATIVE RULES
CHAPTER 801, DIVISION 005 - BOARD OF ACCOUNTANCY

DEFINITIONS AND SAFE HARBOR LANGUAGE

Definitions

801-005-0010 As used in OAR Chapter 801, the following terms or abbreviations have the following meanings, unless otherwise defined therein:

- (1) **AICPA:** American Institute of Certified Public Accountants.
- (2) **Applicant:** a person applying for a certificate, license or permit to practice public accountancy.
- (3) **Attest, Attesting or Attestation:** includes the following financial statement services:
 - (a) An audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS):
 - (b) A review of a financial statement to be performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS);
 - (c) Any engagement to be performed in accordance with the statements on Standards for Attest Engagements (SSAE);
 - (d) An engagement to be performed in accordance with the standards of the Public Company Accounting Oversight Board in the United States (PCAOB)
 - (e) The statements on standards specified in subsections (a) through (c) of this definition are those developed by the AICPA.
- (4) **Business organization:** any form of business organization authorized by law, including but not limited to a proprietorship, partnership, corporation, limited liability company, limited liability partnership or professional corporation.
- (5) **CPA or Certified Public Accountant:** a person who has a certificate of certified public accountant issued under ORS 673.040.
- (6) **CPA Exam:** the Uniform Certified Public Accountant Examination.
- (7) **CPE:** continuing professional education.
- (8) **Candidate:** a person applying for the CPA Exam.
- (9) **Certificate:** a certificate of certified public accountant issued under ORS 673.040.
- (10) **Client:** a person who agrees with a licensee to receive any professional service from the licensee.
- (11) **Commission:** as used in ORS chapter 673 and OAR chapter 801, commission means a fee calculated as a percentage of the total value of the sale of a product or service that is paid or received in the form of money or other valuable consideration.
- (12) **Compilation:** a professional service performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS) that is presenting, in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.
- (13) **Contingent fee:** as used in ORS chapter 673 and OAR chapter 801, contingent fee means a fee established for the performance of any professional service and directly or indirectly paid to a licensee pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of

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the fee is otherwise dependent upon the finding or result of such service. A fee is not contingent if the fee:

(a) Is fixed by courts or other public authorities; or

(b) In tax matters, is determined based on the results of judicial proceedings or the findings of governmental agencies.

(14) Enterprise: any person or entity, whether organized for profit or not, for which a licensee provides public accounting services.

(15) Fees: includes commissions, contingent fees and referral fees.

(16) Financial statements: the presentation of financial data, including accompanying notes, that is derived from accounting records and intended to communicate an entity's economic resources or obligations or the changes therein, at a specific point in time, and/or the results of operations for a specific period of time, presented in accordance with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles. Financial presentations included in tax returns are not financial statements. Incidental financial data included in management advisory services reports to support recommendations to a client are not financial statements. The method of preparation (for example, manual or computer preparation) is not relevant to the definition of a financial statement.

(17) Firm: a business organization as defined in ORS 673.010 that is engaged in the practice of public accountancy and is required to be registered with the Board.

(18) First time candidate: a candidate for the CPA exam who is sitting for the exam for the first time in any state.

(19) Generally Accepted Accounting Principles: accounting principles or standards generally accepted in the United States, including but not limited to *Statements of Financial Accounting Standards* and interpretations thereof, as published by the Financial Accounting Standards Board, and *Statements of Governmental Accounting Standards* and interpretations thereof, as published by the Government Accounting Standards Board.

(20) Generally Accepted Auditing Standards: the *Generally Accepted Auditing Standards* adopted by the American Institute of Certified Public Accountants, together with interpretations thereof, as set forth in *Statements on Auditing Standards* issued by the AICPA, and for federal audits, the *Single Audit Act* and related U.S. Office of Management and Budget Circulars published by the Government Accountability Office.

(21) Holding out as a CPA or PA: to assume or use by oral or written communication the titles or designations "certified public accountant" or "public accountant" or the abbreviations "CPA" or "PA", or any number or other title, sign, card, device or use of any internet domain or e-mail name, tending to indicate that the person holds a certificate or license and permit in good standing issued under the authority of ORS 673 as a certified public accountant or a public accountant.

(22) Inactive status: permit status that may be granted to a licensee who is not holding out as a CPA or PA and otherwise not engaged in the practice of public accountancy, if the license is not suspended, on probation or revoked.

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(23) In good standing: the status of a holder of a permit, license or registration issued by any jurisdiction, that is not inactive, suspended, revoked, on probation or lapsed.

(24) Jurisdiction: the licensing authority for the practice of public accountancy in any state, U.S. Territory or foreign country.

(25) License:

(a) A certificate, permit or registration, or a license issued under ORS 673.100, or other authority enabling the holder thereof to practice public accountancy in this state; or

(b) A certificate, permit, registration or other authorization issued by a jurisdiction outside this state enabling the holder thereof to practice public accountancy in that jurisdiction.

(26) Licensee: the holder of a license as defined in these rules.

(27) Material participation: participation that is regular, continuous and substantial.

(28) Manager: a manager of a limited liability company.

(29) Member: a member of a limited liability company.

(30) NASBA: National Association of State Boards of Accountancy.

(31) Non-licensee owner: a person who does not hold a certificate, license or permit as a certified public accountant or public accountant in Oregon or in any other jurisdiction.

(32) PA or Public Accountant: a person who is the holder of a license issued under ORS 673.100.

(33) Peer Review: a study, appraisal or review of one or more aspects of the public accountancy work of a holder of a permit under ORS 673.150 or of a registered business organization that performs attestation or compilation services. The peer review shall be conducted by a CPA who holds an active license issued by any state or a public accountant licensed under ORS 673.100 who was required to pass the audit section of the Uniform CPA Exam as a requirement for licensing. The peer reviewer must also be independent of the permit holder or registered business organization being reviewed.

(34) Permit: a permit to practice public accountancy issued under ORS 673.150.

(35) Practice of public accountancy: performance of or any offer to perform one or more services for a client or potential client, by a licensee while holding out as a CPA or PA, of the professional services of accounting, tax, personal financial planning, litigation support services, and those professional services for which standards are promulgated, such as Statements of Financial Accounting Standards, Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, Statements on Standards for Consulting Services, Statements of Governmental Accounting Standards, and Statements on Standards for Attestation Engagements, including the performance of such services while in the employ of another person.

(36) Principal Place of Business: the physical location, as identified by a licensee, where the licensee conducts substantial administrative or management activities. For purposes of "substantial equivalency" the physical location may not be in the State of Oregon.

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(37) Professional: arising out of or related to the specialized knowledge or skills associated with certified public accountants and public accountants.

(38) Professional services: any services performed or offered to be performed by a licensee for a client or potential client in the course of the practice of public accountancy.

(39) Referral fee: as used in ORS chapter 673 and OAR chapter 801, referral fee includes, but is not limited to, a rebate, preference, discount or any item of value, whether in the form of money or otherwise, given or received by a certified public accountant, public accountant or firm, to or from any third party, directly or indirectly, in exchange for the purchase of any product or service, unless made in the ordinary course of business.

(40) Registration: the authority issued under ORS 673.160 to a business organization to practice public accountancy in this state.

(41) Returning candidate: a person who has received grades for any section of the Uniform CPA exam in any state and who applies to sit for any part of the CPA exam in Oregon.

(42) Single Audit Act: the Single Audit Act with the Single Audit Act Amendments of 1996, as published by the United States Government Accountability Office, Office of Management and Budget.

(43) Standards for Accounting and Review Services: the *Statements on Standards for Accounting and Review Services* published by the AICPA.

(44) Standards for board approved peer review programs: the *Standards for Performing and Reporting on Peer Reviews* published by the AICPA.

(45) Statements on Standards for Attestation Engagements: the statements by that name issued by the AICPA.

(46) State: any state, territory or insular possession of the United States, and the District of Columbia.

(47) Substantial equivalency: eligibility for substantial equivalency under ORS 673.153 may be determined under either of the following two standards::

(a) Determination by the National Qualification Appraisal Service of the National Association of State Boards of Accountancy that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are equivalent to or exceed the education, examination and experience requirements of the Uniform Accountancy Act; or

(b) An individual's personal education, examination and experience qualifications are verified by the Board to be of substantial equivalence to or exceed the education, examination and experience requirements of ORS chapter 673 and OAR chapter 801.

(48) Uniform Accountancy Act (UAA): A model bill and set of regulations designed by the AICPA and NASBA to provide a uniform approach to regulation of the accounting profession, provisions of which may or may not be adopted by state boards of accountancy.

(49) Valid: Describes a certified public accountant certificate or permit, a public accountant license or permit, municipal roster authority, firm registration or chartered accountant certificate that is in active status and in good standing with the appropriate

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licensing authority. A license or certificate in active status is one that is not revoked, suspended, subject to probation, lapsed or inactive.

[The publication(s) referred to or incorporated by reference in this rule are available from the office of the Oregon Board of Accountancy.]

Stat. Auth.: ORS 670.310

Stats. Implemented: ORS 670.310

Hist.: 1AB 2-1982, f. & ef. 10-15-86 AB 1-1989, f. & cert. ef. 1-25-89; AB 2-1990, f. & cert. ef. 4-9-90; AB 1-1992, f. & cert. ef. 2-18-92; AB 1-1993, f. 1-14-93, cert. ef. 1-15-93; AB 6-1993(Temp), f. 11-2-93, cert. ef. 11-4-93; AB 1-1994, f. & cert. ef. 1-21-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 5-1994, f. & cert. ef. 11-10-94; AB 2-1995, f. & cert. ef. 3-22-95; AB 3-1995, f. & cert. ef. 5-19-95; AB 4-1995, f. & cert. ef. 8-8-95; AB 1-1996, f. & cert. ef. 1-29-96; AB 2-1996, f. & cert. ef. 9-25-96; AB 2-1997, f. & cert. ef. 3-10-97; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 2-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 3-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 3-2005, f. 2-24-05 cert. ef. 3-1-05; BOA 6-2005, f. 11-22-05, cert. ef. 1-1-06

Report

801-005-0200 (1) "Report", when used with reference to attestation or compilation services means an opinion or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing the report has special knowledge or competence in public accountancy. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the issuer is a public accountancy professional or organization or may arise from the language of the report itself.

(a) The term "report" includes any form of language that:

(A) Disclaims an opinion when the form of language implies any positive assurance as to the reliability of the financial statements referred to or special knowledge or competence on the part of the person or firm issuing the language;

(B) Implies any positive assurance as to the reliability of the financial statements referred to or special knowledge or competence on the part of the person or firm issuing the language; or

(C) Relates to the financial affairs of a person and that is conventionally used by licensees in reports or financial statements.

Stat. Auth.: ORS 670.310

Stat. Implemented: ORS 673.410

Hist.: 1AB 2-1986, f. & ef. 10-15-86; AB 1-1995, f. & cert. ef. 1-25-95; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02

Language Not Constituting a Report

801-005-0300 The following statement, signed by a person who does not hold a permit issued under ORS 673.150, shall not constitute a report under ORS 673.320 so long as the statement is not accompanied by any wording indicating the person is an accountant or auditor or other language prohibited by ORS 673.020, 673.030, 673.310 or 673.320: "The accompanying balance sheet (or . . .) of XYZ Company as of (date) and the related statements of income (or retained earnings or cash flows) for the year then ended have been prepared by me (us). The information presented in these financial statements is the representation of management (owners)."

Stat. Auth.: ORS 670.310

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Stat. Implemented: ORS 673.325

Hist.: 1AB 2-1986, f. & ef. 10-15-86; AB 3-1990, f. 5-22-90, cert. ef. 5-23-90; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02

Financial Statement Preparation

801-005-0400 Preparation of financial statements or reports (as defined by OAR 801-005-0200) is restricted to CPAs and PAs, unless prepared in accordance with OAR 801-005-0300.

Stat. Auth.: ORS 670.310

Stat. Implemented: ORS 673.320

Hist.: BOA 6-1998, f. & cert. ef. 7-29-98; BOA 4-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02