

# Oregon State Board of Tax Practitioners

## Board Meeting Minutes

**Meeting Date:** November 4, 2010

**Time:** 9:20 a.m. – 4:54 p.m.

**Location:** Morrow Crane Building, Salem, Oregon

**Attendees:** Jess Gutierrez - Vice-Chair  
 Janis Salisbury  
 Toni Ellsworth  
 Margaret Atchison  
 Dorothy Hudson - Board Chair (excused)  
 Alan Twombly (excused)  
 Dea Williams (arrived late)

**Guests:** Susan Parks, OAIA  
 Nancy Hubbard, OSTC  
 Linda Thomas  
 Judith Wilkins, OATC  
 Kelly M. Gabliks, DOJ

**Staff:** Ron Wagner, Executive Director  
 Monica J. Walker, Senior Comp Specialist/Investigator  
 Jane Billings, Exam & Education Coordinator  
 Marika Dwyer, Licensing Specialist

ITEM		ACTION / DISCUSSION	
Gutierrez called the meeting to order at 9:20 a.m.			
Roll called	Board members present: Atchison, Salisbury, Gutierrez, Ellsworth. Hudson and Twombly (excused), and Williams (arrived late). Gutierrez reminded attendees of Board meeting protocol.		
Approval of meeting minutes	<p>Motion: Salisbury moved that the minutes for 09/23/10 be accepted as adjusted. Motion passed. Ayes: Ellsworth, Salisbury, Williams, Atchison, and Gutierrez.</p> <p>Board meeting minutes are located on the Tax Board Web site at:  <a href="http://www.oregon.gov/OBTP/Meeting_Minutes.shtml">http://www.oregon.gov/OBTP/Meeting_Minutes.shtml</a></p>		
Administration Report			
Budget reported by Ron Wagner	<p>Wagner shared the budget overview with Board members. Due to timing issues there were \$14,961 in additional revenues not showing for September. Our total revenues to date were \$708,847, actual exceeding projected revenues. Although projected expenditures were not as extreme as first calculated, Wagner still intends to go to the Emergency Board to ask for a \$25,000 increase to the budget allotment. Wagner shared a draft letter that will go to the E-Board explaining the increase in the rent and other factors for office space in the Morrow Crane Building. Gutierrez suggested that Wagner mention the Board's consumer protection function in the letter. Ellsworth was concerned that the Board might have to borrow funds. Wagner assured all Board members that the Board's revenues will exceed expenditures and the Board's ending balance is healthy. There will be no need to borrow funds. Wagner is confident that the additional funds will be approved and will let the Board know as soon as the decision is made.</p> <p>The "gut and stuff" of our Legislative Concept 761 (assigned as HB 2066) was</p>		

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	submitted, and the bill was drafted.
Administrative Issues	<p>Wagner reported that the Board’s Web site currently uses version two of TeamSite, but is in the process of upgrading to version three.</p> <p>Wagner also shared an article given to all state tax administrators regarding a Texas joint compliance program with the alcoholic beverage commission, very much like the pilot project that the Board participated in with the Oregon Department of Revenue (DOR).</p> <p>The DOR Pilot Project requests that everyone resubmit a survey regarding the project. There was some kind of portal problem with the original 500+ survey responses, so unfortunately those results can not be recovered.</p> <p>Wagner went over the many reasons the renewal process is slowed down. He is reviewing the process for resolving the errors on applications and will compare with the Board of Accountancy’s protocol. He will report his findings in his next update. Ellsworth mentioned that renewing online would be a way to eliminate errors. Williams emphasized that the burden of responsibility should be on the licensees. Salisbury suggested including a flyer to note the timeline. Wagner will look into having fillable PDFs online.</p> <p>Wagner requested any submissions for the newsletter be turned in as soon as possible.</p> <p>There were 18 different options submitted for the Board logo and the votes were taken for the top three. Ellsworth suggested taking the design to the junior colleges. Wagner will bring what he finds to the January Board meeting.</p>
Reduction of Fees	<p>At the last Board meeting there was a discussion about the revenue impact of reducing the initial preparer licensing fees. To reduce fees from \$80 to \$25 will decrease revenues by \$30,965. If the Board reduced the fee from \$80 to \$10, it would decrease revenues by \$39,410. This would be implemented in 2011. Wagner felt that reducing the fee to \$50 would be a comfortable reduction (\$16,890) and still leave the Board with financial cushion. There is still time to make a decision about this because the administrative rules can be changed later, so this will be an agenda item on the next Board meeting agenda.</p>
Board Meeting Break 10:37 a.m.-10:48 a.m.	
<b>Administrative Rules</b>	
Rule Review facilitated by Jane Billings	<p>The Rules Advisory Committee met on October 14, 2010, and consisted of 20 people. There was one group suggestion that the consultant exam become open book. After some discussion, the Board agreed that only the preparer exam should be open book.</p> <p>Billings skipped over several housekeeping rule changes. Comments were reviewed. Gabliks commented on how the items were easy to follow. Gabliks clarified that “licensee who primarily prepared the return” should not include the “responsible for” wording, confusing the issue. After much discussion, since there are not two signature lines on the forms, the preparer who substantially prepared the return will</p>

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	<p>be the one to include their license number and sign the return. Wagner suggested that the rule be reworked to be more readable – the state personal income tax return shall include the signature and Board issued state license number of the licensee who substantially prepared the return.</p> <p>Gablks reminded the Board that they may want to include electronic advertising as well as business cards and stationery. Wording now includes the Web and E-Commerce advertising. She also clarified the policy to propose having designated consultant’s license number and the business registration license number on advertising, differentiating between business and individual advertising. Wording will include (OBTP #). If it becomes permanent rule, it will be effective July 1, 2012.</p> <p>The preapproval of all correspondence and self study continuing education was eliminated for courses already approved by the IRS, CTEC, NASBA, QAS, and NATP and other industry sponsors as approved by the Board. It was discussed that licensees should have some sincere desire to gain knowledge from the courses they take. Salisbury suggested researching the possibility of linking to a list of courses already approved.</p>
<p><b>Lunch 12:20 p.m.</b> Gutierrez reconvened the Board meeting at 12:45 p.m.</p>	
<p><b>Administrative Rules (continued)</b></p>	
<p>Rules Review</p>	<p>The Board continued to review and discuss changes to the rules and suggestions of the Rules Advisory Committee. The minimum number of participants for in-company instruction was discussed, but not changed from ten. Gabliks cautioned that the Board may not have the authority to make rule changes in work experience hours without making a statutory rule change first. It can be approved, but not go into effect before the law goes into effect. Required hours will be adjusted proportionally for volunteer work and continuing education in lieu of work hours.</p>
<p>Completed Rules Review</p>	<p><b>Motion:</b> Salisbury moved that the Board accept the changes to the rules as amended during the meeting today. Motion passed. Ayes: Ellsworth, Williams, Gutierrez, Atchison, and Salisbury.</p> <p>2010 Oregon Administrative Rulemaking based on Rules Advisory Committee Recommendations is located on the Tax Board Web site at:  <a href="http://www.oregon.gov/OBTP/oregon_administrative_rulemaking.shtml">http://www.oregon.gov/OBTP/oregon_administrative_rulemaking.shtml</a></p>
<p><b>Public Comment</b></p>	
<p>Nancy Hubbard, OSTC</p>	<p>Hubbard asked about “page 14B (ii) of the rule changes, max 150 needs to be adjusted?” The Board clarified that 19% of the 1100 hours was decided.</p>
<p>Judy Wilkins, OATC</p>	<p>Wilkins asked if the business registration number needed to be on the signs of the building, tax returns, cover portfolios, etc. for advertising. The response was that this would be addressed later in the meeting.</p>
<p>Board Meeting Break 2:27 p.m.-2:37 p.m.</p>	
<p><b>Executive Session</b>  <small>To discuss information exempt from public disclosure under ORS 673.730(3). Pursuant to 192.660(2)(f). This Executive Session is closed to members of the public.</small></p>	
<p>Executive Session 2:40 p.m.-3:43 p.m.</p>	

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Compliance Report	
Reported by Monica J. Walker	<p>Walker reported on 2 cases during executive session. Ten cases are new and pending investigation. Seven complaints were received from outside sources and three were internal. Two cases need Board action and vote. Two cases required mediation; one regarding return of records and the other about possible unlicensed activity.</p> <p><b>Case updates</b> – F. Daniel Wilson, Cottage Grove, was sited \$8500 for using a consultant’s number on returns when he was a preparer. Although he had filed for bankruptcy, this civil penalty is not claimed as exempt. There will be a proof of claim filed noting that the actual amount owed now, after several payments is \$4500. The Board will worry about contacting him if he fails to make a payment after the end of the stay, dated December 27<sup>th</sup>.</p> <p><b>Other business</b> – The Board has previously voted to allow final orders by default to be written without Board approval.</p> <p>In September the Board discussed the possibility of mobile licensure. Wagner and Walker created a list of controls, and a brainstorming handout was passed around to Board members. The list covered concerns such as whether it should be available for consultants only, if will there be a separate fee for it, or will it have rules that just pertain to it, should it require a minimum number of years as an LTC, and will there be a limit to the complexity of the return, how often will it be renewed, will the certificates expire at the same time, and will they need to carry the certification with them? Gabliks liked the idea of calling it an endorsement for the current license. Walker suggested this topic be reviewed by the Business Practices Committee and then brought forward with recommendations.</p> <p>Walker gave a presentation at the Portland OATC Chapter meeting in October. She shared Oregon Administrative Rule changes, recapped field visit findings, reviewed compliance cases, touched on national licensing, DOR Pilot Project, legislation and the Board’s public awareness campaign, additional rules regarding refund anticipation loans, Board budget, etc.</p> <p>DOR practitioner meetings covered appeals processes in September and tax payer self sufficiency, electronic payments and Oregon depreciation differences in October. In November and December they would like NOL updates, federal vs. Oregon, self sufficiency and electronic payment updates.</p> <p>In Leadership Oregon the session theme was strategic planning, where Walker attended a conference sponsored by the Center for Creative Leadership.</p>
Settlement Agreements & Stipulated Final Orders	
Kenneth Cuyler Salem, OR	<p><b>Motion:</b> Salisbury moved that the Board issue a Final Order in the amount of \$600 to Kenneth O. Cuyler, of Salem, OR, for one (1) violation of ORS 673.643(1) and OAR 800-025-030(1) for failing to register his tax preparation branch office at \$100; and one (1) violation of ORS 673.615(2) and OAR 800-052-0050(2) for allowing a tax preparer who has not had at least one year’s tax return preparation experience to prepare, advise or assist in the preparation of tax returns without the immediate on</p>

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	site supervision of more experienced personnel at \$500. Motion passed. Ayes: Williams, Atchison, Ellsworth, Gutierrez, and Salisbury.
Other Business	<b>Motion:</b> Salisbury moved that the authority to write and sign Final Orders be delegated to the Board's Executive Director for cases in which the full Board has already established civil penalty amounts and previously voted to issue a Notice of Intent to Discipline. Motion passed. Ayes: Ellsworth, Atchison, Salisbury, Williams, and Gutierrez.
<b>Waiver Requests</b>	
Carol J. Jackson, Coquille, OR	<b>Motion:</b> Salisbury moved to deny preparer licensure to Carol Jean Jackson due to a history of conduct resulting in conviction of crimes involving Theft of Identity and Forgery as per Oregon Revised Statute 673.700 (4)(a) and (b). Motion passed. Ayes: Atchison, Williams, and Gutierrez. Nays: Ellsworth and Salisbury.
<b>Licensing Report</b>	
Reported by Marika Dwyer	Dwyer provided a handout to illustrate the trend in licensing with a comparison report including last year's and current statistics. There was an increase of 924 more preparers since the last report. The lapsed letters were just run and there were close to 600 in that group. There are more businesses closed than last year and less opening, and there are more preparers retiring.
<b>Exam and Education Report</b>	
Reported by Jane Billings	<p>Billings provided the Board with the most recent monthly statistics for the exams, and offered to include December's statistics as well, but the actual figures will be based on a thirteen month calculation. It was determined that the report include December of the prior year through December of the current year.</p> <p>Billings shared a letter from Deborah McKinney, instructor of the basic 80-hour tax course in Albany. McKinney proposed that her entire class be able to take the exam at the college, using volunteers from the local OATC and OSTC to proctor the exam. The Board felt it might pose a security risk, set a precedent we do not want to duplicate, and noted there is a proctor site in town.</p> <p>PCC Sylvania has withdrawn their offer to be a proctor site, but hopes to be one next year. Columbia Gorge Community College has sent a signed contract to be a proctor site. Sylvan Learning Centers are independently owned, but the Salem location will administer a pencil exam, so they could be added as another proctor site charging \$40. Billings has looked into other testing companies, such as ProMetrics, Pierson View, Castle Worldwide, ETS and PCI. She is gathering and comparing information and approaches to share with the Board.</p> <p>The continuing education audit for preparers is about ready to be sent out. She will send out 260 audit letters. The consultant audit only had seven people who did not respond. There were six licensees who had submitted unacceptable continuing education.</p> <p>There was only one CE review in question. CCH – Sales and Use Tax Constitutional Issues. Not relevant to our criteria.</p>

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	<p><b>Motion:</b> Salisbury moved that the Board not accept CCH – <i>Sales and Use Tax Constitutional Issues</i> as approved CE for three hours. Motion passed. Ayes: Ellsworth, Atchison, Gutierrez, Salisbury, and Williams.</p> <p>Billings asked Board members to be thinking about the Instructor Workshop for 2011. She looked into using On Your Feet, but the cost for a one-day session runs from \$10,000 to 14,000.</p>
<p><b>Annual Calendar</b></p>	
	<p>The next Board meeting will be January 6, 2011, in Salem. May 10-11 work session for the consultant exam, and Board meeting on the 12<sup>th</sup>. July 12-13 we will have the work session for the preparer exam, and then the Board meeting on the 14<sup>th</sup>. September 22<sup>nd</sup> will be the Board outreach meeting, with the location to be announced. The Instructor Workshop will be August 9<sup>th</sup>. The next two Board meetings will be held on November 10, 2011 and January 5, 2012. The Board administered exam will be on December 10, 2011.</p>
<p><b>Public Comment</b></p>	
<p>Linda Thomas</p>	<p>Thomas commented on the topic of having a certificate of mobility being a good opportunity to improve public awareness in nursing homes.</p>
<p><b>Adjournment</b></p>	
<p>Gutierrez adjourned the Board meeting at 4:54 p.m.</p>	

**Next meeting:**  
 January 6, 2011  
 Morrow Crane Building, Salem, Oregon