

Oregon State Board of Tax Practitioners

Board Meeting Minutes

Meeting Date: January 6, 2011

Time: 9:05 a.m. – 4:52 p.m.

Location: Morrow Crane Building, Salem, Oregon

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

Guests: Nancy Hubbard, OSTC
 Susan Parks, OAIA
 Judith Wilkins, OATC
 Linda Thomas
 Matt Stayner, LFO
 Merry VanAtta
 Randy Shimek

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

ITEM	ACTION / DISCUSSION
Hudson called the meeting to order at 9:05 a.m.	
Roll called	Board members present: Twombly, Ellsworth, Gutierrez, Salisbury, Williams, and Hudson. Atchison excused. Hudson reminded attendees of Board meeting protocol.
Approval of meeting minutes	<p>Hudson asked Board members if they had any changes or corrections for the November 4, 2010 meeting minutes.</p> <p>Motion: Gutierrez made a motion to accept the November 4, 2010, Board meeting minutes as adjusted by the Board. Motion passed. Ayes: Ellsworth, Salisbury, Williams, Hudson, Gutierrez, and Twombly.</p> <p>Board meeting minutes are located on the Tax Board Web site at: http://www.oregon.gov/OBTP/meeting_minutes.shtml</p>
Administration Report	
Budget reported by Ron Wagner	<p>Hudson thanked Wagner for the monthly reports provided to Board members. He mentioned that they would not receive reports on months when a Board meeting was already scheduled.</p> <p>Wagner introduced the Board’s new legislative fiscal analyst, Matt Stayner. The accountant provided copies of agency wide cash flow sheets. The projected revenue for the biennium to date, July 1, 2009 through November 30, 2010, is \$791,172. The actual revenue to date is \$829,810. Our actual revenue to date exceeds the projected revenue by \$38,638.</p> <p>The projected expenses for the biennium to date, July 1, 2009 through November 30, 2010, are \$718,000. The actual expenses to date are \$750,284. Our actual expenses to date exceed the projected expenses by \$32,284. We expected to exceed our projected</p>

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expenses due to having hired temporary workers in the first half of the biennium to help with office workload, to help increase the Board's exposure through increased media spots and to create a communication plan. These expenses will not be duplicated in the second half of the biennium.

Wagner shared that the E-Board approved an increase of \$20,000 - Other Funds Expenditure Limitation for Assistant Attorney General costs. This will assure the Board's expenditures are within the amount allowed for the biennium.

The statutory changes requested by the Board have been introduced in HB 2066. This bill includes the requirement that licensees must have a PTIN issued by the IRS, the increase from 780 hours to 1,100 hours of work as an LTP to qualify to take the LTC exam, and minor housekeeping changes.

The Department of Revenue (DOR) Compliance Project is complete. Representatives from DOR will share their conclusions with legislative leadership later this month. The final compliance rates are 99% for LTCs and 96.1% for LTPs. DOR offers their sincere thanks for the Board's cooperation with them on the compliance project.

Representatives Holvey and Kotek have been spearheading meetings with community based organizations to add further requirements when offering Refund Anticipation Loans (RALs). The concept has been introduced as HB 2467. The bill requires each licensee offering RALs to file a corporate surety bond or irrevocable letter of credit in the sum of \$25,000; requires filing and posting certain disclosures; prohibits add-on fees that brokers charge for RAL and RAC loans; bans deceptive sales practices and requires lenders to inform customers about loan costs, interest rates and average delivery times for IRS direct delivery; and makes violation of unlawful practice subject to the enforcement under the Unlawful Trade Practices Act.

Gutierrez asked how this will impact workload in the office. Although it is difficult to know, Wagner will make some estimates and include those in the fiscal impact statement from the Board.

The current ending balance as of the end of November is \$372,951.71. Wagner projects the Board will have an ending balance of \$525,000, keeping the Board in good financial shape.

Wagner checked into how the renewal process can be improved. He was interested in putting the responsibility of incomplete applications back on the licensees. There was discussion about sending form letters vs. making calls, and which saved more time.

The Board of Accountancy has been working on bringing up an online registration system, and Wagner has been watching to see how the Tax Board can also do this. He talked with the Oregon Health Licensing Agency and found that they too contracted out and spent a substantial amount of money (\$600,000) on this.

Wagner opened the discussion on the continuing education (CE) audit process and stated there may be a need for changing the CE attestation process as it may save time. Billings asked to reserve further discussion of the CE audit process until the Exam & Education report. All agreed.

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Board Meeting Break 10:15 a.m. – 10:28 a.m.

Rule Making Update and Discussion

Reported by Jane Billings	The rule making hearing took place on December 22, 2010. No one physically attended to make public comment. Six written comments were received. Two of the proposed rule changes are pending statute changes, so they won't go into effect until legislative approval. The Board discussed comments received about the proposed rule changes involving increasing the number of hours needed to qualify to sit for the consultant exam, decreasing the initial fee for becoming a tax preparer, advertising, and proposed requirement to have all tax businesses have identifying office number visible from the street.
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Lunch 11:45 a.m. Hudson reconvened the meeting at 12:22 p.m.

Exam & Education Report

Reported by Jane Billings	<p>Exam statistics were distributed to the Board that incorporated the suggestion previously made by the Board to include December from the previous year in the current year final calculations.</p> <p>Billings researched testing services as requested by the Board. A number are willing to come and present their programs to the Board. It is her understanding from the Wagner that the Board is not ready to proceed at this time due to the costs involved.</p> <p>The state administered exam was held on December 11, 2011. Billings thanked the volunteers for their assistance. There were 171 applicants that applied to take the exam, six cancelled prior to the exam and eight were no-shows.</p> <p>The Board discussed questions Billings has received from applicants about what and what is not acceptable with regards to source documents. Discussion regarding tabbing and the use of Post-its or divider pages, notebooks, color coding source documents, and other concerns were addressed. Ultimately it was decided that divider tabs, colored divider pages and color coding sides of pages were acceptable, however Post-it notes are not allowed. Absolutely no writing will be allowed in source documents during the exam. Salisbury stressed the need for proctors to be more observant during the exam.</p> <p>CE was reviewed by the Board members. Hera's Income Tax Course submitted courses that were assigned to Margaret Atchison. They will be reviewed at a later date. Courses were submitted by CCH, Pacific Northwest Tax, and Professional Education Services.</p> <p>Motion: Twombly moved that the Board accept the continuing education for Pacific Northwest Tax as adjusted. Motion passed. Ayes: Williams, Ellsworth, Hudson, Salisbury, and Twombly. Abstained: Gutierrez.</p> <p>Motion: Twombly moved to deny the continuing education course for certification from Professional Education Service <i>Complete Guide to Investment</i>. Motion passed. Ayes: Ellsworth, Twombly, Salisbury, Williams, Gutierrez and Hudson.</p> <p>All other courses were approved.</p>
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	<p>The CE audit for consultants is now completed. One licensee did not respond to any communications from the Board. This licensee has been passed on to the Board's Compliance Specialist, Monica J. Walker.</p> <p>The CE audit for preparers is almost complete. There were 260 preparer licensees audited. Five licensees had hours that have been denied or were unacceptable. They have been notified and have been asked to submit additional hours. There are eight licensees that never responded to the original audit letter. They have been notified again in writing and have 30 days to respond.</p> <p>Billings asked for the Board's input regarding their expectations of the audit, specifically the need to require that certificates for all CE hours listed on renewals be submitted during audit. The Board determined that it is only necessary for licensees to submit documentation for a total of 30 hours regardless of additional hours they have attested to on their renewal. Discussion included suggestions to eliminate the requirement to list CE hours on renewal and just use a check box that they have complied with the 30-hour CE requirement.</p> <p>Wagner noted that for the agency key performance measures it is necessary to track the total hours of CE taken in excess of 30. He would like to continue to encourage licensees to write down all hours taken, even if the Board only requires that licensees submit 30 of those hours during the audit.</p> <p>Williams voiced her concerns about eliminating the requirement for licensees to write down all CE hours on their renewals. Walker suggested that along with the check box attesting to the required 30 hours, the Board could require licensees to continue to write down the number of hours of CE taken during the past year. Ellsworth suggested increasing the percentage of licensees being audited.</p> <p>The final determination was made to eliminate the individual listing of CE on the renewal and replace it with a check box attesting to the completion of the required 30 hours along with recording the total number of CE hours taken during the previous year renewal period.</p> <p>Walker commented that a good percentage of licensees fail to renew on time and consequently avoid the audit. Due to licensees who submit their renewals late, it was suggested to pull the list of licensees for audit during tax season (March), allowing the audit to be fair to all.</p>
Instructor Workshop	<p>Billings has contacted Rich Galvez and Teresa Massey as potential presenters at the 2011 Instructor Workshop. She provided proposals to the Board from both. Billings suggested having one presenter as opposed to two, which would allow the presenter to be more in depth with his or her presentation. Request was made for volunteers from among the Board members to present a segment of the workshop and/or be on the Q & A panel. Board discussion involved suggestions of what subjects to focus on during the workshop. Suggestions included focusing on instruction on how to take tests, learning styles, adult learning, tips and tricks, study skills and panel discussion at the end. The workshop is scheduled for August 9, 2011 in the Wilsonville area.</p>

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	Staff will continue to make preparations for accommodations and presenters.
Board Meeting Break 1:34 p.m. – 1:45 p.m.	
Licensing Report	
Statistics reported by Marika Dwyer	There is a decrease in the number of licenses over all compared with last year’s surge in new preparers. More licensees are choosing to be inactive, and there is an increase in retired preparers this year. Less new businesses are being opened, and a few more branches are being closed.
Executive Session	
<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>	
Executive Session 1:50 p.m.-2:24 p.m.	
Compliance Report	
Reported by Monica J. Walker	<p>There were three total cases reported on during Executive Session. There are fourteen new complaints received or pending investigation, three of which are internal and eleven were received from outside sources. Three cases that need Board action or vote, and two cases were mediated.</p> <p>Walker is conducting additional research about the mobile certificate endorsement in order to be more informative to the Business Practices Committee, when it meets between May and July.</p> <p>The Leadership Oregon session theme for November was persuasion and influence. It was a two-day training where they worked interactively in groups, and it was very informative. Walker graduated from the Leadership Oregon program in December. She thanked Wagner and the Board for the opportunity to participate.</p>
Notices of Intent	
Frank Minier, Vancouver, WA	<p>Motion: Salisbury moved that the Board issue a Notice of Intent to Revoke the consultant license of O. Frank Minier, license number 67795-C, of Vancouver, Washington, for violating the provisions of Oregon Revised Statute 673.655 and Oregon Administrative Rule 800-015-0015, including the following civil penalty assessments: one (1) violation of ORS 673.655 and OAR 800-015-0015 for failing to comply with continuing education requirements at \$300; one (1) violation of ORS 673.705(1) obtaining or attempting to obtain a license by fraudulent representation at \$500; and three (3) violations of the Code of Professional Conduct - ORS 673.705(7) and OAR 800-010-0042; failing to respond to the Board’s notifications of audit at \$100 per violation. Motion passed. Ayes: Gutierrez, Williams, Ellsworth, Twombly, Hudson, and Salisbury.</p>
Waiver Requests with Convictions	
Christopher Klitgord	<p>Motion: Salisbury moved to deny licensure to Christopher J. Klitgord due to a history of conduct resulting in felony convictions of crimes involving sexual abuse as per Oregon Revised Statute 673.700(4)(a). Motion passed. Ayes: Twombly, Ellsworth, Gutierrez, Hudson, Williams, and Salisbury.</p>
Kent Feldsted	<p>Motion: Salisbury moved to approve preparer licensure to Kent Feldsted based on</p>

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	the Board’s review of the circumstances surrounding his history and conduct which resulted in violations of the “Rules of Fair Practice” of the National Association of Security Dealers (NASD) and the barring from association with any NASD member in any capacity. Motion passed. Ayes: Twombly, Ellsworth, Gutierrez, Hudson, Williams, and Salisbury.
Waiver Requests	
License Waiver for DC/RC, Sharon Reeves, Bay City, Oregon	Motion: Twombly moved to accept the designated and resident consultant waiver for Sharon Joy Reeves of Bay City, Oregon through May 31, 2011, effective immediately. Motion passed. Ayes: Williams, Ellsworth, Salisbury, Twombly, Gutierrez, and Hudson.
License Waiver for DC/RC, Mirjam Metcalf, Lake Oswego, Oregon	Motion: Twombly moved to accept the designated and resident consultant waiver for Mirjam Metcalf of Lake Oswego, Oregon through May 31, 2011, effective immediately. Motion passed. Ayes: Hudson, Salisbury, Ellsworth, Williams, and Twombly, Abstained: Gutierrez.
License Waiver for DC/RC, Jill Chateau, Medford, Oregon	Motion: Twombly moved to accept the designated and resident consultant waiver for Jill Chateau of Medford, Oregon through May 31, 2011, effective immediately. Motion passed. Ayes: Gutierrez, Williams, Ellsworth, Twombly, Hudson, and Salisbury.
Public Comment	
Nancy Hubbard	Hubbard supports the attestation of the education hours, but shared that at one point detailed CE recording was important for investigating to see if the licensee had studied in the subject that a complaint was related to. She also felt that the Board should send an e-mail to remind preparers to record all hours on renewals.
Other Business	
Board Logo	Wagner is still gathering information and hopes to have something to report at the next Board meeting.
Courses Link	Billings will put links to approved courses on the Web site in the future.
Oregon.gov Page Feature Story	Wagner reported that the Board will be featured on the state’s home page during the next week, sometime in March and then in the first week of April. The story is geared toward the consumer and how to protect yourself and links to the Board’s Licensee Look-Up.
Daniel Wilson	Walker reported that he has continued to make payments toward his civil penalty even so he filed for Chapter 13 bankruptcy..
Executive Session	
To discuss examination candidate question and comment forms. This information is exempt from public disclosure pursuant to 192.660(2)(f), this Executive Session is closed to members of the public.	
Executive Session 2:50 p.m.-4.21 p.m.	
Exam Questions	
Questions and Comments	Motion: Twombly moved that the Board accept the changes to the exam from the question and comment forms as discussed in Executive Session. Motion passed. Ayes: Twombly, Hudson, Williams, Ellsworth, Gutierrez, and Salisbury.

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Executive Session

To discuss personnel issues. This information is exempt from public disclosure pursuant to 192.660(2)(i), this Executive Session is closed to members of the public.

Executive Session 4:22 p.m.-4:52 p.m.

Adjournment

Twombly adjourned the Board meeting at 4:52 p.m.

Next meeting:

May 12, 2011

Morrow Crane Building, Salem, Oregon