



Mission: The Board of Tax Practitioners protects consumers by ensuring that Oregon tax professionals are competent and ethical in their professional activities.

Board Members:

Nutan Arora, LTC, Chair
Susan Gallagher-Smith, LTC, Vice-Chair
Michael Addington, LTC
Janis Salisbury, LTC
JoAnne Vetter, LTC

Board Staff:

Howard Moyes, Executive Director
Heather Shepherd, Compliance Specialist
Shari Barrett, Licensing Specialist
Kyle Martin, Attorney-in-Charge, DOJ

Guests: Beverly Diercks, Dale Marino, David Garvin, Linda Thomas, and Randy Shimek

1. Call to Order

Chair Arora called the public session to order at 9:01 a.m. Roll call was completed.

JoAnne Vetter was sworn in as a Board Member.

2. Executive Session

Chair Arora closed the public session at 9:05 a.m. to convene in Executive Session pursuant to ORS 192.660(2)(f). The Executive Session is closed to members of the public.

3. Public Session

Chair Arora concluded the Executive Session and called the public meeting to order at 11:30 a.m.

4. Amendments to Proposed Agenda

Discussion of possible changes to the Preparer's Exam was added to the Exam and Education Report.

Discussion of Enrolled Agents Conference was added to Other Business.

5. Administrative Report

Budget Update

Mr. Moyes provided an update and summary of the Board's FY13-15 budget and projections for FY15-17 revenues and expenses. Revenue trends were also discussed.

Mr. Moyes estimated that the Board would end the FY13-15 Biennium with approximately \$970,242 in revenues and \$1,070,900 in expenses. This would leave the Board with a cash balance of approximately \$431,254, or roughly 10 months of operating capital.

Looking forward to the FY15-17 Biennium, Mr. Moyes estimated that licensing revenues may be up to \$300,000 less than budgeted (\$835,498 vs. \$1,139,850). A recent reduction in annual renewal fees and fewer licensees were identified as the primary causes of the expected shortfall. Mr. Moyes said staff were already working on ways to reduce expenses and he would provide the Board with monthly updates on the Board's financial position.

Office Update

Mr. Moyes discussed the status of the vacant Exam and Education Coordinator position and said staff would conduct interviews the week of July 13, 2015. The Board received 20 applications.

Mr. Moyes provided an update on the Board's technology migration project. The planned development and implementation of an online registration and renewal portal was on hold due to limitations of the Board's obsolete database. However, Mr. Moyes said the state's E-Government vendor, NICUSA, was under contract to provide smaller state agencies, like the Board, with technology services, including databases, at no up-front cost. Mr. Moyes noted that NICUSA had successfully implemented technology solutions for several Oregon agencies and the staff at the Division of Administrative Services were impressed with the firm's work to date. Mr. Moyes said he would submit a request to NICUSA for an integrated database/online portal application within the next week.

Mr. Moyes also discussed the importance of staff safety when conducting site visits and said he was looking into what training other agencies, such as the Department of Revenue, may offer for their compliance staff that Board staff may be able to access.

Administrative Rule Development Update

Mr. Moyes discussed comments he received regarding recent rule changes. Several of the comments were from practitioners who said they were not notified of the changes, particularly the requirement to complete two hours of ethics or professional conduct training each year. Mr. Moyes noted that staff turnover earlier in the year

may have resulted in communication gaps with some stakeholders, but the current staff was committed to improving two-way communication with licensees and other interested parties.

6. Licensing Report

Ms. Barrett provided an update on the number of active licensees and registered businesses as of June 2015.

- 1,695 active consultants
- 1,570 active practitioners
- 1,064 active businesses
- 204 active branch offices

Mr. Addington noted that currently there are approximately 700 fewer licensed practitioners in Oregon than just a few years ago.

7. Compliance Report

Maria Luna – Sandy, Oregon

Moved by Vice-Chair Gallagher-Smith that the Board enter into a Settlement Agreement and Stipulated Final Order with Maria Luna of Sandy, Oregon to assess civil penalties in the amount of \$2,000, pursuant to ORS 673.735 and OAR 800-030-0025 for:

One (1) violation of ORS 673.615(1) for preparing, advising, or assisting in the preparation of personal income tax returns for valuable consideration without being licensed or exempt from licensure; and

One (1) violation of ORS 673.643(1) for failing to register a tax preparation business.

The motion passed 5-0.

Michaela Gustafson Ghioni – Gresham, Oregon

Moved by Vice-Chair Gallagher-Smith that the Board enter into a Settlement Agreement and Stipulated Final Order with Michaela Gustafson Ghioni of Gresham, Oregon to assess civil penalties and costs in the amount of \$10,514.61, pursuant to ORS 673.735 and OAR 800-030-0025 for:

Forty-eight (48) violations of ORS 673.705(7) and OAR 800-010-0025(7), a licensee shall not engage in fraudulent, deceptive or dishonest conduct relating to the licensee's professional practice;

Two (2) violations of ORS 673.700(1) and OAR 800-010-0025(3), a licensee shall not arrange for or permit a client's individual income tax refund check to be mailed or made payable to the licensee at any time, for any purpose; and

Pursuant to ORS 673.730(8), the Board's costs associated with this action in the amount of \$5,514.61.

The motion passed 5-0.

Hien B. Trinh-Dinh – Beaverton, Oregon

Moved by Vice-Chair Gallagher-Smith that the Board enter into a Settlement Agreement and Stipulated Final Order with Hien B. Trinh-Dinh of Beaverton, Oregon to assess a civil penalty in the amount of \$100, pursuant to ORS 673.735 and OAR 800-030-0025 for:

One (1) violation of ORS 673.655(1) and OAR 800-015-0010(1) for failing to complete at least 30 hours of required continuing education by the renewal deadline.

The motion passed 5-0.

Emanuel Etuks – Portland, Oregon

Moved by Vice-Chair Gallagher-Smith that the Board enter into a Settlement Agreement and Stipulated Final Order with Emanuel Etuks of Portland, Oregon to assess a civil penalty in the amount of \$2,500, pursuant to ORS 673.735 and OAR 800-030-0025 for:

One (1) violation of ORS 673.643(1) and OAR 800-025-0020(1) for failing to register a tax preparation business.

Pursuant to ORS 673.730(8), the Board's costs associated with this action in the amount of \$302.

The motion passed 5-0.

Case #527 Moved by Vice-Chair Gallagher-Smith that the Board dismiss Case #527.

The motion passed 5-0.

Case #528 Moved by Vice-Chair Gallagher-Smith that the Board issue a Notice of Intent to Discipline for:

One hundred four (104) violations of ORS 673.615(1) (unlicensed activity) at \$100 per violation.

One (1) violation of ORS 673.643(1) (unregistered tax business) at \$100 per year.

The motion passed 5-0.

Case #534 Moved by Vice-Chair Gallagher-Smith that the Board issue a Notice of Intent to Discipline for:

Four hundred forty four (444) violations of ORS 673.615(2) (prohibited acts and accountability) at \$500 per violation.

Four (4) violations of ORS 673.643 and/or OAR 800-025-0020 (unregistered tax business) at \$ 500 per violation.

Three (3) violations of ORS 673.705(1),(3),(6) (prohibited acts) at \$2,500 per violation.

The motion passed 5-0.

Case #536 Moved by Vice-Chair Gallagher-Smith that the Board dismiss Case #536.

The motion passed 5-0.

Case #540 Moved by Vice-Chair Gallagher-Smith that the Board issue a Notice of Intent to Discipline for:

Ninety-four (94) violations of ORS 673.615(2) and/or OAR 800-010-0030(4) (prohibited acts and accountability) at \$500 per violation.

One (1) violation of OAR 800-025-0040(1) (designated consultant) at \$3,000 per violation

The motion passed 5-0.

8. Public Comment

None.

9. Exam and Education Report

Ms. Shepherd shared exam statistics for January – June 2015. During that period, 82 individuals passed the preparer's exam, seven passed the consultant's exam, and 15 passed the state-only consultant's exam.

Chair Arora thanked all the volunteers on the Item Writing Committee for their assistance in reviewing and editing exam questions.

The Board noted the low pass rate (37%) on the preparer's exam and discussed options to increase the number of preparers in the state. Vice-Chair Gallagher-Smith commented that the purpose of offering preparer's licenses is to allow people new to the tax field to (1) acquire basic knowledge of federal and state tax laws by completing an 80-hour course and (2) begin work under the supervision of a seasoned professional (Licensed Tax Consultants) in order to gain more knowledge and experience over time. Mr. Addington concurred and noted that perhaps some of the questions on the current preparer's exam were too advanced for an entry level practitioner, particularly those relating to IRS Forms 4797 and 6252.

The Board then discussed reducing the number of questions on the preparer's exam from 200 to 160, and reducing the time to complete the exam from five hours to four. Further discussion centered on whether to reduce each section of the exam by 20 percent, or reduce some sections more than others.

Mr. Addington made a motion to reduce the preparer's exam from 200 questions to 163, and reduce the exam time from five hours to four hours. The proposed changes would take effect on September 1, 2015.

The motion passed 5-0.

Mr. Addington made another motion for the Board to accept the changes made to exam questions during the Board's two-day executive session on July 7 and 8.

The motion passed 5-0.

Mr. Addington motioned that IRS Publication 974 be added to the list of acceptable source documents and publications exam takers are allowed to bring to the preparer's exam.

The motion passed 5-0.

Ms. Shepherd commented that all the seats at the Board's August 14 Instructor Workshop in Wilsonville were full and there were seven people on a waiting list.

Chair Arora, Vice-Chair Gallagher-Smith, Mr. Addington and Ms. Vetter plan to

attend at least part of the workshop. One reason for their attendance is to solicit and ideas about how to increase the number of licensed preparers in Oregon. Staff will publicly notice the workshop since a quorum of Board Members may be in attendance.

10. Waiver Requests

Susan Gallagher-Smith submitted a request to be the Designated Consultant for Gallagher & Smith Financial Services, Inc., DBA Gallagher Financial Services of Eugene, Oregon; and Eugene Tax Clinic, Inc., DBA Tax Clinic of Eugene, Oregon. The request is based on Gallagher-Smith being the sole shareholder in each corporation.

The motion passed 4-0. (Abstain – Gallagher-Smith)

11. Public Comment

Beverly Diercks pointed out that the Board's approval of Gallagher-Smith's waiver request expired on April 30, 2016. Ms. Gallagher-Smith responded by saying that she understood the time frame of the approved waiver.

Linda Thomas commented on the Board's rules regarding Designated Consultants and how the rules limit individuals from owning multiple tax businesses and/or operating in more than one location. Ms. Thomas noted that the current rules require business owners to hire a Designated/Registered Tax Consultant to oversee each of their offices. She commented that this was an unnecessary expense and that a hired consultant may not run the office as effectively or efficiently as the owner.

David Garvin followed up on the comments and concerns expressed by Ms. Thomas. Mr. Garvin recommended the Board draft rules that specified desired outcomes rather than placing limits on activities and behaviors that may result in unintended consequences.

12. Other Business

Chair Arora identified and welcomed JoAnne Vetter as a new Board Member.

Ms. Barrett updated the Board on the status of the July Newsletter and stated that it would be published before the end of the month.

Chair Arora noted this was Mr. Moyes' first Board meeting and welcomed him to the staff.

Mr. Addington gave a brief summary of his attendance at the Enrolled Agents conference. Attendees at the conference suggested to Mr. Addington that the Board allow Enrolled Agents who do not have 360 hours of experience to work as a Licensed Preparer under the supervision of Licensed Tax Consultant. Then, when the Enrolled Agent/Licensed Tax Preparer obtained 360 hours of work experience, he/she would qualify to apply for a Tax Consultant's License. The OBTP Board expressed interest in this proposal. Mr. Addington also noted that the National Society of Enrolled Agents is seeking legislation, H.R. 828 and S. 422, to clarify the use of credentials by Enrolled Agents.

13. Adjournment

With no other public comments or agenda items, Chair Arora adjourned the July 9, 2015 Board meeting at 2:25 p.m.