

**OREGON ADMINISTRATIVE RULES
CHAPTER 800
BOARD OF TAX PRACTITIONERS**

PROPOSED AMENDMENTS
Bold & Italic = new language added
~~Strike through~~ = language deleted

**DIVISION 10
CODE OF PROFESSIONAL CONDUCT**

800-010-0015

Definitions

As used in these rules, unless the context requires otherwise:

- (1) "Board" means the State Board of Tax Practitioners.
- (2) "Branch Office" means an office or other place of business where clients would normally or usually contact a licensee.
- (3) "Client" means a person for whom a licensee performs or agrees to perform professional services for *valuable consideration* ~~a fee~~ and the services are related directly or indirectly to the client's personal income taxes.
- (4) "Confidential Information" means information furnished to a licensee for, or in connection with, the preparation of a ~~client's~~ income tax return.
- (5) "Designated Consultant" means a Licensed Tax Consultant who is the responsible individual for the preparation of all personal income tax returns prepared for the public for each registered tax preparation business.
- (6) "Licensee" means a Licensed Tax Consultant, Licensed Tax Preparer, or any person, corporation, firm or partnership falling within the purview of ORS 673.605 to 673.735.
- (7) "Resident Consultant" means the Licensed Tax Consultant who is physically present to conduct and carryout his/her duties in the principal or branch office.
- (8) "Tax Consultant or Tax Preparer Practice" and a licensee's "professional practice" means any service performed or supervised by the licensee for a client, including any advice or recommendation made by the licensee to the client, when it is related directly or indirectly to the client's personal income tax return, if the licensee also prepares the client's personal income tax returns.
- (9) "Tax Preparation Business" means a sole proprietorship, partnership, corporation or other entity that offers personal income tax preparation services to the public, for a fee, whether operated under an individual's own name or under an assumed business or corporate name, and including tax preparation businesses operated on a full- or part-time basis.
- (10) "Valuable Consideration", as used in ORS 673.615 and OAR Chapter 800, means a benefit that accrues to a person as a result of preparing, advising or assisting in the preparation of personal tax returns for others, or offering to perform such services. Valuable consideration need not be translatable into dollars and cents.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 6-1986, f. & ef. 12-31-86; TSE 3-1987, f. & ef. 10-2-87; TSE 1-1990, f. & cert. ef. 1-25-90; TSE 4-1991, f. & cert. ef. 10-28-91; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07 ; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-1-10, f. & cert. ef. 2-1-11

800-010-0017

Incompetence and Negligence

Under ORS 673.700(3):

- (1) A licensee is incompetent when he/she has engaged in conduct which evidenced a lack of ability or fitness to perform his or her professional functions.
- (2) A licensee is negligent when he/she has engaged in detrimental conduct to the client.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8-1990, f. & cert. ef. 9-4-90; TSE 9-1990(Temp), f. & cert. ef. 10-30-90; TSE 1-1991, f. & cert. ef. 1-3-91; BTP 1-2003, f. & cert. ef. 9-23-0; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-1-10

800-010-0020

Confidential Information

- (1) A licensee shall not disclose any confidential information obtained in the course of professional engagement except:
 - (a) With the written consent of the client;
 - (b) After being subpoenaed by a court or governmental agency of competent jurisdiction;
 - (c) In response to an inquiry by the Board or its investigator.
 - (d) As required by federal or state regulations for electronic filing.
- (2) Members of the Board and its employees shall not disclose any confidential client information which comes to their attention except as required to carry out their official responsibilities.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1985, f. & ef. 1-15-85; BTSE 1-2001, f. & cert. ef. 4-19-01, f. & cert. ef. 2-5-09

800-010-0025

Integrity and Objectivity

- (1) A licensee shall not knowingly misrepresent facts while preparing, assisting or advising in the preparation of income tax returns. A licensee may resolve doubt in favor of a client if there is ~~reasonable support~~ **substantial authority** for the position.
- (2) A licensee who finds that a client has made an error or omitted information or related material required on an income tax return shall promptly advise the client of such error or omission.
- (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.
- (4) Commissions earned for the personal services of the licensee, such as real estate, insurance, investment and securities sales, may be earned if the licensee also holds any license, permit or registration required by law to perform the services. A licensee shall disclose in writing that he/she will be compensated for any personal services. The client will acknowledge receipt of the disclosure in writing.
- (5) Fees in connection with preparation of tax returns must be stated separately from, and in addition to, any other professional services provided.
- (6) A licensee shall, upon written request by a client, make available or return within a reasonable time to the client, personal papers or source material in the manner furnished to the licensee by the client;
 - (a) A licensee who has provided a tax return to a client shall, upon written request by the client, make available within a reasonable time to the client, copies of depreciation schedules that support the return;
 - (b) A licensee is not required to furnish records to a client more than once under this subsection.
- (7) A licensee shall not engage in fraudulent, deceptive or dishonest conduct relating to the licensee's professional practice.
- (8) A licensee shall not violate any position of trust, including positions of trust outside the licensee's professional practice.

(9) A licensee must be current on all tax return filings and all tax payment plans pertaining to the licensee and/or licensee's business before a license can be issued or renewed.

Stat. Auth.: ORS 673.730(6)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 3-1980, f. & ef. 8-22-80; TSE 1-1985, f. & ef. 1-15-85; TSE 4-1986, f. & ef. 8-15-86; TSE 3-1989, f. & cert. ef. 12-20-89; TSE 1-1992, f. 3-24-92, cert. ef. 6-1-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & cert. ef. 2-1-10

800-010-0030

Accountability

(1) A Licensed Tax Consultant or registered tax preparation business shall only allow persons to practice in the consultant's or tax preparation business name who are licensed as tax consultants, tax preparers, or as described in ORS 673.610.

(2) A Licensed Tax Consultant shall not permit the use of the consultant's license to enable others to establish and carry on a business for the preparation of personal income tax returns wherein the consultant's only interest is the receipt of a fee for use of the consultant's license and the Licensed Tax Consultant does not provide supervision of the tax preparation activities as defined in OAR 800-025-0050.

(3) A Licensed Tax Consultant or a Licensed Tax Preparer shall not state or imply that a Licensed Tax Preparer preparing tax returns to which the consultant's license number or tax preparation business information is affixed is not:

(a) Fully subject to the supervision of the Licensed Tax Consultant or registered tax preparation business; as defined in OAR 800-025-0050; or

(b) Acting as agent of the Licensed Tax Consultant or registered tax preparation business.

(4) A Licensed Tax Preparer shall not engage in the preparation of tax returns, assist in such preparation, gather tax information, or provide tax advice unless the Licensed Tax Preparer is under the supervision of a Licensed Tax Consultant as defined in OAR 800-025-0050.

(5) A licensee shall not maintain a financial interest in or hold an employment position with any business entity that offers personal income tax preparation services, if any other person maintains a financial interest in the entity, or holds a management position involving authority over the business operations of the entity, and:

(a) That person's tax consultants or tax preparers license has been permanently revoked; or

(b) The Board has refused to issue or renew a license to that person; or

(c) Another state regulatory agency or the Internal Revenue Service has revoked or refused to issue or renew an occupational license, registration or permit held or requested by that person, for conduct involving tax preparation or dishonesty.

(6) If required to do so under section (5) of this rule, a licensee shall be allowed a reasonable time, not to exceed 180 calendar days, to sever an existing relationship with a person whose license is revoked or refused.

(7) Section (5) of this rule does not apply to a licensee or a person described in subsections (5)(a) through (c) of this rule, whose only financial interest in a tax preparation business is the ownership of ten percent or less of the stock in a publicly-held corporation.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 1-1985, f. & ef. 1-15-85; TSE 8-1987, f. & ef. 12-21-87; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & cert. ef. 2-1-10, f. & cert. ef. 2-1-11

800-010-0035

Contingent Fees

A licensee shall not render or offer to render professional services under an arrangement whereby no fee will be charged unless a specific finding or result is attained, or where the fee is otherwise contingent upon the findings or results of such services.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76

800-010-0040

Identification

(1) A licensee shall include the name of the tax preparation business, permanent address, and signature on the original and all copies of federal and state personal income tax returns or electronic filing documents prepared by the licensee, together with all other data required by the Internal Revenue Service, Department of Revenue, and State Board of Tax Practitioners. Office copies are exempt from this requirement.

(2) The state personal income tax return shall include the signature and the board issued license number of the licensee who substantially prepared the return.

(3) In addition to the original ~~copies of returns provided to or~~ filed on behalf of a client, at least one (1) ~~duplicate~~ copy of the complete set of the *tax* returns, including all accompanying forms and schedules, shall be supplied to the client. A licensee is not required to provide ~~duplicate records~~ *a free copy of the tax returns* to a client more than once. However, in the case of a joint *tax* return, each spouse is entitled, upon request, to a *free* copy of the *tax* return.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 12, f. & ef. 9-20-77; TSE 1-1978, f. & ef. 2-3-78; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1995, f. & cert. ef. 5-5-95; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, f. & cert. ef. 2-5-09, f. & cert. ef. 2-1-10, f. & cert. ef. 2-1-11

800-010-0041

Address and Telephone

Licensees shall file with the Board their current mailing address, residence address, e-mail address and telephone number(s). Licensees shall also file with the Board their current tax preparation business address, telephone number and a year-round address and telephone number where clients and the Board may contact the licensee. Whenever any of the information required in this section changes, the licensee shall notify the Board within 15 business days.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & cert. ef. 2-1-10, f. & cert. ef. 2-1-11

800-010-0042

Communications

A licensee shall, when requested, respond in writing to communications from the Board within 15 business days of the mailing of such communications to the address furnished to the Board by licensee.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1995, f. & cert. ef. 5-5-95, f. & cert. ef. 2-5-09

800-010-0045

Experience and Competence

A licensee shall not prepare tax returns or give advice that is outside the field of the licensee's experience and competence without the assistance of a person who is competent in the area of concern.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1985, f. & ef. 1-15-85

800-010-0050

Advertising and Solicitation

(1) As used in this rule, "advertise" and "advertising" means any form of printed, broadcast or electronic material that makes known professional income tax services. This includes, but is not limited to, business cards and stationery, and all web and e-commerce advertising of an individual or tax preparation business.

- (2) No licensee or tax preparation business shall advertise or solicit clients in a false, fraudulent, deceptive or misleading manner.
- (3) All advertising must include the name of a firm that has complied with ORS 673.643 or state the name of the firm's Designated Licensed Tax Consultant.
- (a) Only a person holding a valid Tax Consultant's License may use the designation "L.T.C.", "LTC" or the titles "Licensed Tax Consultant" or "Tax Consultant."
 - (b) Only a person holding a valid Tax Preparer's License may use the designation "L.T.P.", "LTP" or the title "Licensed Tax Preparer".
- (4) All advertising must be reviewed and approved in advance by the designated Licensed Tax Consultant. The designated Licensed Tax Consultant and the designating tax preparation business shall each be responsible for the business's compliance with the provisions of this rule.
- (5) No licensee shall advertise to give a discount unless:
- (a) The discount is based upon a basic fee schedule posted in public view in the licensee's place of business; and
 - (b) The fees on the posted basic fee schedule are the usual and customary charges of the tax preparation business; and
 - (c) The basic fee schedule must include the minimum fees charged for at least the following forms and schedules: 1040, 1040A, 1040EZ, Sch. A, Sch. B, Sch. EIC, Form 2441, Form 8812, Oregon 40 & 40S.
- (6) All business advertising must include the board issued business registration number of the firm written as: "OBTP#" or the license number of the firm's Designated Licensed Tax Consultant written as: "LTC#". **(effective 7-1-2012)**
- (7) All individual advertising must include licensee's board issued LTC or LTP license number written as: "LTC#" or "LTP#". **(effective 7-1-2012)**

Stat. Auth.: ORS 673.663

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1981(Temp), f. 2-18-81, ef. 2-19-81; TSE 3-1981, f. 7-22-81, ef. 7-23-81; TSE 4-1981, f. & ef. 8-13-81; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1986, f. & ef. 7-14-86; TSE 2-1990, f. & cert. ef. 1-25-90; TSE 2-1992, f. & cert. ef. 5-15-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, f. & ef. 2-1-10, f. & ef. 2-1-2011, f. & ef. 7-1-2012

**DIVISION 15
EDUCATION**

800-015-0005

Basic Education

(1) An accredited college/university, educational service district (ESD), or a private firm that has met or is exempt from the registration requirements of the Oregon Department of Education or a private firm offering classes only to its own employees and is exempt from the Oregon Department of Education requirements may act as a sponsor for the basic income tax course.

(2) Sponsors shall apply for course certification on a form provided by the Board.

(3) A basic course shall include:

- (a) At least 80 classroom hours of basic tax preparation instruction. If the course is offered through correspondence or online, it must be the equivalent of 80 classroom hours of instruction;
- (b) Instruction in each of the subject areas specified in the Preparer Examination Index maintained by the Board;
- (c) Sufficient working problems to instruct in the use of appropriate forms and schedules; and
- (d) A midterm and final examination.

(4) The Board ~~may~~ **shall** require a sponsor applicant to submit evidence that course materials and lesson plans comply with section (3) of this rule.

(5) Basic course sponsors shall employ only instructors to teach basic courses who are actively licensed or who fall within the exemptions of ORS 673.610(2)(4) and who prepared taxes for at least two (2) tax seasons immediately prior to teaching the course.

- (a) The Board may grant a specific waiver to instructor qualifications when unusual or extenuating circumstances exist.
- (b) Sponsors shall submit to the Board the names and qualifications of instructors teaching each basic course.
- (c) Repeated low passage rates of an instructor's students on the tax preparers' examination could be evidence that the instructor may not be qualified to teach a basic tax preparation course.
- (d) The instructor's approval to teach Basic Tax Preparation courses may be revoked by the Board.

(6) Evidence of successful course completion shall be furnished to students by course instructors on a Board-approved session attendance certification form. Forms may be reproduced by course sponsors. If a student misses a portion of the class sessions, the instructor may provide makeup work.

(7) Applications for course certification shall be submitted annually at least 60 calendar days prior to the course starting. Certification shall be for the subsequent 12 months.

(8) The Board may refuse to issue or withdraw a course certification for failure to meet any of the course or instructor requirements contained in this rule.

Stat. Auth.: ORS 673.625(1)

Stats. Implemented:

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; Renumbered from OAR 800-020-0040 by TSE 2-1980, f. & ef. 5-30-80; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1990, f. & cert. ef. 1-25-90; TSE 7-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & ef. 2-1-10

800-015-0010

Continuing Education

(1) Except for renewal of an initial license, a Licensed Tax Consultant or Licensed Tax Preparer renewing a license shall ~~submit evidence of attending or by self attestation~~ **attest** on the renewal ~~must complete~~ **to have completed** at least 30 hours of acceptable continuing education since the last renewal date.

(2) ~~If by self attestation, each~~ **Each** licensee shall report compliance with the continuing education requirements on the license renewal document. Licensees shall be subject to the provisions of OAR 800-015-0015 pertaining to the periodic audit of continuing education.

(3) ~~If by self attestation, proof~~ **Proof** of participation in required continuing education is the responsibility of the licensee. To ensure that proof of attainment of required continuing education is available for audit or investigation by the Board, licensees shall maintain a record of attendance for at least ~~two (2)~~ **four (4)** years following each continuing education cycle and renewal of the tax practitioner license.

(4) Continuing education credit will be accepted only for courses and seminars that comply with all Board rules regarding continuing education.

(5) The Board may verify continuing education information submitted by licensees.

(6) Education hours earned in excess of 30 hours annually cannot be carried over from one renewal period to the next, except extra hours earned during the month of renewal not claimed on that renewal may be submitted with the following year's renewal.

(7) Continuing education credit shall be granted only once during a license year for attendance at or instruction of duplicate seminars offered by the same sponsor or instructor.

(8) Continuing education credit for courses at accredited universities and colleges will be 15 hours for each semester hour credit and ten (10) hours for each quarter hour credit. For all other courses and seminars, one (1) hour of continuing education credit will be allowed for each hour of classroom attendance.

(9) Continuing education credit may be accepted for instructors of basic or advanced courses or seminars. The credit allowed will be two (2) hours for each hour of teaching, which includes preparation time. No more than ½ of total required continuing education credit can be in teaching.

(10) Correspondence and online study courses may be accepted if the program and sponsor comply with all Board rules regarding continuing education and:

- (a) The sponsor requires evidence of satisfactory completion of workbooks or examinations before certificates are issued.
- (b) The hours credited do not exceed the credit that would be allowed in a resident course covering the same material; and
- (c) A course outline with accompanying workbooks or exams is submitted to the Board, prior to offering the material, for approval of course content and hours

of credit claimed, if not already approved by California Tax Education Council (CTEC), Internal Revenue Service (IRS), National Association of State Boards of Accountancy (NASBA), ~~National Association of Tax Professionals (NATP), Quality Assurance Services (QAS)~~ or courses by such other sponsors as may be approved by the Board.

(11) "In-Company" instruction may be accepted if the course or seminar is presented to ten (10) or more people and all other requirements for continuing education sponsors are met. Portions of such educational sessions devoted to administrative and firm matters shall not be accepted.

(12) If a licensee claims credit for a course or seminar in the reasonable belief the instruction qualifies as acceptable continuing education, but the Board finds all or part of the hours claimed to be unacceptable, the licensee may be granted an additional period of time, not to exceed 60 calendar days, to make up the rejected hours.

(13) Licensed Tax Consultants and Licensed Tax Preparers who have extenuating circumstances and are unable to obtain all their continuing education by their license due dates may make application, by completing a form prescribed by the Board, for a waiver of continuing education hours.

Stat. Auth.: ORS 673.645 - ORS 673.667

Stats. Implemented: ORS 673.645 - ORS.673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 9-1987, f. & ef. 12-21-87; TSE 1-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11

800-015-0015

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Board will audit a select percentage of licensee records determined by the Board to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the Board, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 800-015-0010.

(3) Documentation of a certificate of completion of attendance at a program, seminar or course provided by a sponsor must include:

- (a) Name of student;
 - (b) Name, address and telephone number of sponsoring institution/association or organization;
 - (c) Location of program;
 - (d) Title of program and description of content;
 - (e) Name of instructor or presenter;
 - (f) Date(s) of attendance;
 - (g) Number of instruction hours;
- (4) For documentation of completion of a college/university course, a licensee must submit a *photocopy* ~~copy~~ of an official transcript, diploma, certificate, statement or affidavit.

(5) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(6) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include but is not limited to assessment of a civil penalty and suspension or revocation of the license.

Stat. Auth.: ORS 673.605 - 673.740

Stats. Implemented: ORS 673.605 - 673.740

Hist.: BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & cert. ef. 2-1-11

800-015-0020

Continuing Education Program Requirements

(1) Acceptable continuing education is that which contributes directly to the expertise of the individual in the preparation of income tax returns, and is presented by a sponsor who meets the requirements of all Rules. It is the obligation of each licensee to select a course of study which will contribute to his or her competence in the preparation of income tax returns.

(2) The following general subject matters are acceptable to the extent they contribute directly to the expertise of *advising, assisting, preparing income tax returns*: ~~income tax preparation~~

(a) Taxation.

(b) Practitioner Ethics.

(c) Accounting and payroll theory.

(d) Estate, tax or investment planning.

(e) Computer technology.

(f) *Tax representation: exam, collections, appeals.* ~~Others, if the licensee can demonstrate a direct relationship to the preparation of a client's income tax returns.~~

(g) *Others, if the licensee can demonstrate a direct relationship to the preparation of a client's income tax returns.*

(3) Programs primarily directed towards the licensee's personal benefit, rather than that of his or her clients, and programs relating primarily to general business management, are unacceptable. Some examples of unacceptable subjects are:

(a) Memory improvement.

(b) Buying or selling a tax practice.

(c) Setting fee schedules.

(d) Character development.

(e) Behavior modification.

(f) Business management

(g) Labor law.

(h) Economic forecasts.

(i) Learning to operate office equipment.

(4) Programs must be at least one (1) 50-minute education hour with credit given in whole hours only.

(5) Programs must be conducted by a qualified instructor whose background, training, education or experience make it appropriate for the person to lead a discussion on the subject matter of the particular program.

(6) Licensees may not receive credit for repeat of courses taken *by the same instructor* within the same continuing education reporting period.

Stat. Auth.: ORS 673.645 - ORS 673.667

Stats. Implemented: ORS 673.645 - ORS 673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 2-1989, f. & cert. ef. 10-27-89; TSE 8-1992, f. & cert. ef. 12-22-92; TSE 2-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2007, f. 1-12-07, cert. ef. 2-1-07; f. & cert. ef. 2-5-09, f. & ef. 2-1-10

800-015-0030

Continuing Education and Basic Sponsor Requirements

(1) Sponsors shall:

- (a) Maintain for at least two (2) years an outline of each program presented;
- (b) Maintain for at least two (2) years a record of attendance for each program presented;
- (c) Maintain for at least two (2) years a record of instructor names, addresses and qualification; and
- (d) Provide the student a certificate or other verification of completion at the conclusion of the program. If the sponsor is an accredited college or university, a ~~student transcript or grade report~~ **photocopy of an official transcript or certificate of completion** showing the credit earned will be acceptable verification. For all other sponsors, the certification shall include:
 - (A) Name of student;
 - (B) Name, address and telephone number of sponsoring institution/association or organization;
 - (C) Location of program;
 - (D) Title of program and description of content;
 - (E) Name of instructor or presenter;
 - (F) Date(s) of attendance;
 - (G) Number of instruction hours.

(1) Sponsors must conduct their programs in an honest and ethical manner.

Stat. Auth.: ORS 673.655

Stats. Implemented:

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1995, f. & cert. ef. 5-5-95; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & cert. ef. 2-1-11

**DIVISION 20
PROCEDURES**

800-020-0015

Application for Examination

(1) Application to take the examination for a tax preparer or tax consultant must be filed with the Board on forms prescribed and furnished by the Board. The application must include the examination fee and the proctor site fee, if applicable. The application must be signed.

(2) The application and examination fee shall be filed with the Board no later than one (1) month prior to the examination date, except when the Board sets tighter deadlines due to extenuating circumstances.

(3) Completed basic course certification forms as required under OAR 800-015-0005(6) *or a photocopy of an official transcript issued by an accredited college or university* shall be submitted to the Board by the student with the initial application for a Tax Preparer License. The preparer applicant may file an application to take the examination before completing the basic tax course. ~~Applicants shall furnish the Board a brief outline of courses completed, together with a transcript from the educational institution if the course(s) they completed has/have not received prior approval from the Board.~~ If the Board determines the course(s) completed is/are comparable to those described in OAR 800-015-0005, the applicant shall be eligible to take the examination.

4) A tax consultant applicant who is a Licensed Tax Preparer shall submit verification by the applicant's employer or employers, on forms prescribed and furnished by the Board, that the applicant has worked in the capacity as a Licensed Tax Preparer for not less than a cumulative total of 780 (**total of 1100 effective 7-1-2012**) hours during at least two (2) of the last five (5) years.

(5) A tax consultant applicant who is claiming equivalent tax preparer experience shall submit on forms prescribed and furnished by the Board:

(a) Verification by the applicant's employer or employers that the applicant has worked in the capacity as a Licensed Tax Preparer for not less than a cumulative total of 780 (**total of 1100 effective 7-1-2012**) hours during at least two (2) of the last five (5) years.

(i) The Board will accept employment as an income tax auditor or taxpayer service representative with the Internal Revenue Service or State Department of Revenue as being equivalent experience.

(ii) For the purpose of meeting the work experience requirement for tax consultants, one hour of experience gained through volunteer tax preparation programs such as VITA ~~and~~ AARP-TCE *and CASH-Oregon* will be accepted for each five hours spent preparing, advising or assisting in the preparation of tax returns through the volunteer program, up to a maximum of 150 (**total of 212 effective 7-1-2012**) hours credited. To qualify for the one (1) to five (5) hour experience credit, total hours worked in the volunteer program must be verified in writing by a supervisor knowledgeable in tax preparation.

(b) To claim experience under this section, the applicant must submit a petition signed under penalty of perjury that the work experience claimed is true, correct and complete.

(6) Applicants for the tax consultant examination must have completed, within a year prior to submitting application, a minimum of 15 hours of acceptable continuing education in personal income taxation to meet the requirements of OAR 800-015-0010 to 800-015-0030. This requirement is in addition to the required 780 (**total of 1100 effective 7-1-2012**) hours of work experience earned during at least two (2) of the last five (5) years.

(7) A tax practitioner applicant claiming tax consulting experience in another state shall:

- (a) Submit, on a form prescribed and furnished by the Board, a petition signed under penalty of perjury, claiming self-employment as a tax practitioner for no less than two (2) of the last five (5) years; and
- (b) Furnish documented proof of self-employment as a tax practitioner.

(8) A tax preparer or tax consultant applicant who has worked in the capacity as a tax practitioner in another state or in an exempt status may request Board approval to substitute work experience for up to two-thirds of the classroom hours of basic income tax education otherwise required to qualify as a tax preparer or tax consultant. Approval may be granted to substitute experience for education only if:

- (a) The applicant was actively engaged in a tax preparation business within two (2) years prior to the date of application;
- (b) The applicant has at least three (3) years experience in a tax preparation business;
- (c) The applicant has gained a competency level through work experience that is equal to those applicants who have successfully completed the basic income tax course; and
- (d) The applicant submits verification by the applicant's employer(s) or evidence of self-employment regarding the work experience.

(9) The Board may accept education credit for courses completed by a tax consultant applicant to substitute for up to 260 (**total of 365 effective 7-1-2012**) hours of work experience at the rate of one (1) classroom hour of education for five (5) hours of experience if:

- (a) The subject matter of the course was related to taxation;
- (b) The applicant completed the course within one (1) year of applying to become a Licensed Tax Consultant; and
- (c) Credit for the course is not claimed to fulfill continuing education requirements.

(10) Information required of the applicant and on the application forms shall be completed before an applicant may be admitted to an examination.

Stat. Auth.: ORS 673.625

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 2-1980, f. & ef. 5-30-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1988, f. & cert. ef. 11-2-88; TSE 5-1990, f. & cert. ef. 5-3-90; TSE 9-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2005, f. & cert. ef. 1-5-05; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11, f. & ef. 7-1-12

800-020-0020

Examinations

(1) Licensing examinations shall be scheduled as the Board deems appropriate.

(2) Tax preparer and tax consultant applicant's examination shall be written.

Questions shall be so constructed as to measure the applicant's knowledge of Oregon and federal personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the **Code of Professional Conduct**. The tax consultant examination shall require a higher standard of knowledge.

(3) A tax preparer applicant must have at least a 75 percent grade or score on the entire examination to pass.

(4) A tax consultant applicant must have at least a 75 percent grade or score on the entire examination to pass.

(5) An enrolled agent who is enrolled to practice before the Internal Revenue Service, holding a valid treasury card, must have at least a 75 percent grade or score on the Consultant' State-Only portion of the examination to pass.

(6) Pass or fail results, including scores, of the examination shall be provided to each examination candidate, electronically or in writing. Results will not be given by any other means.

(7) No review of examination questions by the applicant will be granted.

(8) An applicant who fails to pass the examination shall be eligible for a succeeding examination upon making application and payment of the examination fee.

(9) A tax preparer applicant must re-take the Basic Course, if after three (3) years from Basic Course completion date, the applicant has not yet passed the preparer examination.

(10) An applicant who passes an examination must apply for licensing within 60 days from the examination date. If application for license is not made within 60 calendar days, the applicant must retake the examination, unless there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 10(Temp), f. & ef. 11-29-76 thru 3-28-77; TSE 11, f. & ef. 4-6-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1980, f. & ef. 5-30-80; TSE 1-1981 (Temp), f. 1-2-81, ef. 1-5-81; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1984(Temp), f. & ef. 12-20-84; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1985(Temp), f. & ef. 6-11-85; TSE 2-1986, f. & ef. 7-14-86; TSE 4-1987, f. & ef. 10-2-87; TSE 1-1989, f. & cert. ef. 6-8-89; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 2-2004, f. 8-12-04 cert. ef. 8-31-04; BTP 2-2005, f. 7-28-05, cert. ef. 8-1-05; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & cert. ef. 7-1-11

[Note: Preparers must submit verification of completion of the 80 hour basic course when making application for licensure.]

800-020-0022

Examination Conduct; Disqualification

(1) Examination Conduct: Examinations shall be conducted in a designated area with restricted access. Approval notification of an applicant's eligibility to take the examination must be issued by the board office prior to scheduling an appointment for examination. Authorization must be provided by the board office or proctoring site before bringing any materials, electronic equipment or devices into the examination area.

Applicants shall be required to provide a government issued photographic identification such as a driver's license before being allowed to take the examination.

(2) Examination Disqualification: A candidate may be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

- (a) Taking or attempting to take any unauthorized items, notes, materials or devices into the examination area;
- (b) Giving or attempting to give assistance to others in answering questions during the examination;
- (c) Receiving or attempting to receive assistance during the examination, including assistance from other individuals, notes, books or devices to answer questions;
- (d) Removing or attempting to remove any secure examination-related information, notes, or materials from the examination site;
- (e) Failing to follow directions relative to the conduct of the examination;
- (f) Exhibiting behavior which impedes the normal progress of the examination; and
- (g) Endangering the health or safety of a person involved in the examination.

(3) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. ***Any candidate who has been disqualified during an exam will need to request in writing approval from the Board to retake the exam.*** The candidate will be required to reapply, ~~submit~~ ***by submitting a new exam application***, additional examination fees, and ~~request in writing via submission of a new application to schedule another examination.~~ ***a letter requesting approval to retake the exam including an explanation of their actions which resulted in disqualification from the exam. If approved the*** The examination will be scheduled at a date, time and place determined by the Board ~~following the date of disqualification.~~

Stat. Auth.: ORS 673.605 - 673.740, 673.990

Stats. Implemented: ORS 673.605 - 673.740, 673.990

Hist.: BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08

800-020-0025

Fees

The fees for licenses and registrations issued, renewed, reactivated or otherwise, shall be prescribed by the State Board of Tax Practitioners by rule but shall not exceed the following:

- (1) The fee for application for examination for a tax preparer's license is \$50.
- (2) The fee for application for examination for a tax consultant's license is \$85.
- (3) The fee for issuance of a tax preparer's initial license is \$50.

(4) The fee for a combination tax preparer's initial license/tax preparation business registration is \$110.

~~(4)~~ (5) The fee for renewal for a tax preparer's active license is \$80.

~~(5)~~ (6) The fee for issuance or renewal of a tax consultant's active license is \$95.

~~(6)~~ (7) The fee for an initial consultant license, if an applicant holds an active preparer's license is \$65.

~~(7)~~ (8) The fee for an initial combination consultant license/tax preparation business registration, if an applicant holds an active preparer's license is \$125.

~~(8)~~ (9) The fee to place a tax preparer's license in inactive status is \$35.

~~(9)~~ (10) The fee to place a tax consultant's license in inactive status is \$50.

~~(10)~~ (11) The fee for reactivation of a tax preparer license in inactive status is \$80.

~~(11)~~ (12) The fee for reactivation of a tax consultant license in inactive status is \$95.

~~(12)~~ (13) The fee to reactivate a tax preparer or tax consultant license in lapsed status is \$35, plus payment of all unpaid renewal fees.

~~(13)~~ (14) The fee for a duplicate practitioners license is \$10.

~~(14)~~ (15) The fee for a duplicate business registration is \$10.

~~(15)~~ (16) The fee for a replacement tax consultant's certificate is \$15.

~~(16)~~ (17) The fee for issuance or renewal of a tax preparation business registration is \$110.

~~(17)~~ (18) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$155:

(a) For Consultants – If postmarked on or before June 15th.

(b) For Preparers – If postmarked on or before October 15th.

~~(18)~~ (19) The fee for issuance or renewal of a branch office registration is \$20.

~~(19)~~ (20) The nonrefundable processing fee retained for all refunds issued is \$10.

~~(20)~~ (21) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The Board may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for Non-Sufficient Fund (NSF) or uncollected funds the Board will attempt to collect payment by other means.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.685

Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & ef. 2-1-10, f. & ef. 2-1-11, f. & cert. ef. 7-1-11

800-020-0026

Refunds of Examination Fees

(1) A \$10 nonrefundable processing fee shall be retained from all examination application fees. The remainder of an examination application fee shall be refunded only when the applicant is not qualified or when there are verifiable circumstances beyond the reasonable control of the applicant.

(2) Except as provided in section (3) of this rule, an applicant who has been approved to sit for the examination but who fails to take the exam is a “no-show” or takes but does not pass the examination shall not be entitled to a refund of the examination fee.

(3) If application for examination is made in anticipation of successfully completing the required basic course and the applicant fails to complete the required course a refund of the examination fee will be issued only if:

(a) The applicant establishes that failure to successfully complete the course was beyond the reasonable control of the applicant and

(b) The applicant notifies the Board prior to the scheduled examination date.

(4) A \$10 nonrefundable processing fee shall be retained from all license, renewal and registration application fees. The remainder of the application fee remitted shall be refunded only when the licensee is not qualified or when there are verifiable circumstances beyond the reasonable control of the licensee.

Stat. Auth.: ORS 673.730(3)

Stats. Implemented:

Hist.: TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 6-1991, f. & cert. ef. 10-28-91; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-1-11

800-020-0030

Licenses – Renewals and Reactivation

(1) Applicants who pass the required examination and meet all other requirements shall be issued a license upon request and payment of the license fee. The licensee shall be assigned a permanent license number.

(2) Tax preparers' licenses shall expire annually on September 30.

(3) Tax consultants' licenses shall expire annually on May 31.

(4) Renewal licenses shall be issued upon receipt of a signed renewal application notice, proof of required continuing education and the appropriate fee.

(5) Licensed Tax Preparers have the option to file for inactive status on or before October 15, provided the license is not in lapsed status as provided in OAR 800-020-0035 (2).

(6) Licensed Tax Consultants have the option to file for inactive status on or before June 15, provided the license is not in lapsed status as provided in OAR 800-020-0035 (2).

(7) If a tax preparer or tax consultant license is suspended or revoked, the individual's license and pocket identification card become the property of the Board and shall, on demand, be delivered by the holder to the Board of Tax Practitioners.

(8) Licenses that have been placed in inactive or lapsed status may be reactivated upon receipt of a completed reactivation application form prescribed by the Board, proof of required continuing education and the appropriate fee(s).

Stat. Auth.: ORS 673.730

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 2-1993, f. & cert. ef. 2-23-93; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09

800-020-0031

Certificates

(1) A Licensed Tax Consultant's certificate issued by the Board may be displayed by the licensee so long as the licensee holds a current valid license as a Licensed Tax Consultant. If a Licensed Tax Consultant's license has been placed in inactive or lapsed status, the holder shall no longer display the certificate.

(2) If a tax consultant's license is suspended or revoked, the certificate becomes the property of the Board and shall on demand be delivered by the holder to the Board of Tax Practitioners.

Stat. Auth.:ORS 673.730

Stats. Implemented:

Hist.: TSE 13, f. & ef. 9-20-77; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1993, f. & cert. ef. 2-23-93; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08

800-020-0035

Inactive and Lapsed Status

(1) Except as provided in section (3) of this rule, a license that has been placed in inactive status may be reactivated upon submission of a reactivation application, payment of license fee for an active license and proof of compliance with all past continuing education requirements the same as if the licensee had held an active license.

(2) Except as provided in section (3) of this rule, a license that has been placed in lapsed status may be reactivated to active status upon submission of a reactivation application, payment of all past unpaid fees and proof of compliance with all past continuing education requirements the same as if the licensee had held an active license. A license that has been placed in lapsed status shall not be placed in inactive status.

(3) A license that has been placed in inactive or lapsed status, or a combination thereof, for three (3) consecutive years, shall not be reactivated to active status.

(4) The Board may refuse to reactivate a license that has been placed in inactive or lapsed status for the same reasons it may refuse to issue, renew, suspend, or revoke a license.

Stat. Auth.: ORS 673.645, ORS 673.667 & ORS 673.730

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 3-1985, f. & ef. 12-5-85; TSE 2-1991, f. & cert. ef. 1-30-91; TSE 6-1992, f. 8-13-92, cert. ef. 8-1-93; TSE 2-1993, f. & cert. ef. 2-23-93; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09

800-020-0065

Displaying of Licenses

Licensed Tax Consultants and Licensed Tax Preparers shall display their licenses in public view in their place of business.

Stat. Auth.: ORS 673.660

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, f. & ef. 2-1-10

DIVISION 25
TAX PREPARATION BUSINESS

800-025-0010

Firm Names

(1) The name under which a tax preparation business offers and/or performs services must be in compliance with the laws and rules of the Oregon Corporation Division.

(2) The designation Licensed Tax Preparer or reference to the title Licensed Tax Preparer in any manner, including initials or acronyms shall not be included as part of a firm name.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 4-1992, f. & cert. ef. 5-15-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05

800-025-0020

Tax Preparation Business Registration

(1) A tax preparation business shall not offer services to the public until the business has:

- (a) Complied with applicable laws and rules of the Oregon Corporation Division;
- (b) Registered with the Board, on a Board-approved application form, the tax preparation business name, address, telephone number, and e-mail address; the name(s) of the owner(s) of the business; and the name of the individual(s) responsible under OAR 800-025-0040 for the tax activities of the business; and
- (c) Paid the tax preparation business registration fee required under OAR 800-025-0025.

(2) Within 15 business days of a change of name or ownership, a tax preparation business must file a new business registration with the Board and pay a new business registration fee.

(3) A person who offers tax preparation services under more than one tax preparation business name must register each such name as a separate business.

(4) Any business located within a residence shall have an identifying house number or a sign that is easily visible from the street to indicate the location of the business.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 13-1991(Temp), f. & cert. ef. 11-25-91; TSE 14-1991, f. 11-25-91, cert. ef. 1-1-92; TSE 4-1992, f. & cert. ef. 5-15-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11

800-025-0023

Reporting Closing of Tax Preparation Business; Address and Phone Changes

A tax preparation business shall notify the Board within 15 business days of:

(1) Termination of the tax preparation business;

(2) A change in the mailing address, physical address, e-mail address or telephone number(s) of the tax preparation business.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 7-1991, f. & cert. ef. 10-28-91; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11

800-025-0025

Renewal of Tax Preparation Business Registration

(1) Tax preparation business registrations shall expire annually on June 15, except that combination tax preparation business registration/tax preparer licenses shall expire annually on October 15.

(2) At least 30 calendar days prior to the registration expiration date each year, the Board shall attempt to notify each tax preparation business, using the contact information they provided to the Board, that their tax preparation business registration is up for renewal.

(3) Renewal registrations shall be issued to a qualifying tax preparation business upon receipt of a completed registration renewal application and the fee for registering a tax preparation business specified in OAR 800-020-0025(14) or the fee for a combined tax consultants or tax preparers license and tax preparation business registration specified in OAR 800-020-0025(15).

(4) A tax preparation business whose registration has expired shall not perform tax preparation services for the public, for a fee, or offer such services until the tax business submits a new tax preparation business registration application and the application process has been completed.

Stat. Auth.:

Stats. Implemented:

Hist.: TSE 8-1991, f. & cert. ef. 10-28-91; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11

800-025-0027

Eligibility for Combined Tax Preparation Business Registration and Tax Consultant/Preparer License

(1) A tax preparation business is not eligible for a combined license and registration under OAR 800-020-0025(15) unless at least one (1) of the owners of the tax preparation business is a Licensed Tax Consultant or Licensed Tax Preparer. As used in this section, "owner" means an individual who owns at least ten (10) percent of the tax preparation business.

(2) A tax preparation business, including a tax preparation business that must file a new registration due to a change of name or ownership, is not eligible for a combined license and registration under OAR 800-020-0025(15) unless the registration submitted is:

(a) A new registration, at the time of application for the owner's tax consultant's or tax preparer's license;

(b) A renewal registration, before the expiration date of the current registration.

(3) A licensee who owns more than one (1) tax preparation business is eligible for only one combined license and business registration under OAR 800-020-0025(17). A licensee must pay the full business-registration fee ~~for a second or additional tax preparation businesses~~ *for each additional tax preparation business* under OAR 800-020-0025(17).

Stat. Auth.:

Stats. Implemented:

Hist.: TSE 9-1991, f. & cert. ef. 10-28-91; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11

800-025-0029

Displaying Tax Business Registration

Tax preparation businesses shall post their current registration in public view in their place of business.

Stat. Auth.:ORS 673.643 & ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 4-1992, f. & cert. ef. 5-15-92, f. & ef. 2-1-10

800-025-0030

Branch Offices

(1) A tax preparation business shall not operate any branch office until:

(a) The tax preparation business has complied with all laws and rules of the Board concerning tax business registration;

(b) The mailing address, physical address, e-mail and phone number(s) of the branch office and the name and license number of the resident consultant for the branch office have been submitted to the Board; and

(c) The tax preparation business has paid an annual fee for the branch office registration for that location as required under OAR 800-020-0025(16).

(2) Branch office registrations shall expire annually on the expiration date of the associated tax business registration.

(3) At least 30 calendar days before the expiration of a branch office registration, the Board shall attempt to notify each tax preparation business, using the contact information the tax preparation business has provided to the Board, that their tax preparation branch office registration is up for renewal.

(4) Renewal branch office registrations shall be issued to qualifying tax preparation businesses upon receipt of the required annual registration fee.

(5) A tax preparation business operating branch offices shall notify the Board within 15 business days of:

(a) Change of mailing address, physical address, e-mail address or phone number(s) of the branch office.

(b) Change in Resident Consultant and/or Designated Consultant of the branch office.

(c) Closing the branch office.

(6) Branch offices must be conducted under the same name as the principal office. This name and current registration shall be posted in public view in each branch office.

(7) The name of the Designated Consultant and the name of the Resident Consultant must be posted in public view in each branch office.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.730(5)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 10-1991, f. & cert. ef. 10-28-91; TSE 5-1992, f. 5-15-92, cert. ef. 7-1-92; TSE 2-1996, f. & cert. ef. 12-30-96; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11

800-025-0040

Designated Consultants

(1) A tax preparation business shall not engage in the preparation of personal income tax returns for the public, or offer such services, until the business has designated a Licensed Tax Consultant or other authorized person ("Designated Consultant") as the responsible individual. A form prescribed by the Board shall be signed by the Designated Consultant and signed by the owner or authorized representative of the tax preparation business.

(2) The Designated Consultant shall be responsible for all tax preparation activities of the business. The Designated Consultant and the designating business shall each be responsible for the business compliance with laws and rules of the Board.

(3) A Designated Consultant will cease to be responsible for a business's tax preparation services upon receipt by the Board of written notice from the consultant or business.

(4) A Licensed Tax Consultant may act as the Designated Consultant for only one tax preparation business, except by written application for waiver.

(5) An application for waiver to serve as a Designated Consultant for more than one (1) tax preparation business shall set forth the following:

- (a) The name and address of the tax preparation business for which the Licensed Tax Consultant is presently serving as the Designated Consultant;
- (b) The name and address of the additional tax preparation business for which the Licensed Tax Consultant is requesting approval to serve as the Designated Consultant;
- (c) A detailed plan how each tax preparation business will be supervised in carrying out the duties as a Designated Consultant;
- (d) The financial relationship of the proposed Designated Consultant and the tax preparation businesses; and
- (e) Unusual or extenuating circumstances why approval should be granted.

(6) In determining whether a Licensed Tax Consultant will be approved to act as a Designated Consultant for more than one (1) tax preparation business, the Board:

- (a) May approve an application for waiver only wherein the Licensed Tax Consultant has an ownership interest in the tax preparation businesses, or unusual or extenuating circumstances exist, such as the death of a Designated Consultant, resulting in undue hardship. The Board may limit the Licensed Tax Consultant designation period; and
- (b) Shall consider the Licensed Tax Consultant's past record of compliance with ORS 673.605 to 673.735, rules of the Board, statutes of the State of Oregon

together with information set forth in the application for waiver, particularly the feasibility of the plan in supervising the corporation, firm or partnership.

(7) A tax preparation business shall notify the Board within 15 business days of any change in status of its Designated Consultant.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0050; TSE 4-1989, f. & cert. ef. 12-20-89; TSE 11-1991, f. & cert. ef. 10-28-91; TSE 10-1992, f. & cert. ef. 12-22-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2006, f. & cert. ef. 9-5-06; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, f. & cert. ef. 2-5-09, f. & ef. 2-1-10

800-025-0050

Management and Supervision of Tax Preparation Business

(1) Each principal and branch office must be under the management and supervision of a Licensed Tax Consultant. Supervision means:

- (a) The direct and immediate control of the Licensed Tax Preparer by the Licensed Tax Consultant in such manner that the Licensed Tax Consultant is aware of the line of questioning and the reasoning applied by the Licensed Tax Preparer in the preparation of each return, and that the Licensed Tax Consultant has adequate opportunity to correct or add to the reasoning applied by the Licensed Tax Preparer; and
- (b) A system of selecting, training and controlling the Licensed Tax Preparer, including having a set of procedures by which the Licensed Tax Consultant is assured that the Licensed Tax Preparer is providing competent workmanship and abiding by the statutes and Board rules. Such procedures shall include:
 - (A) An examination and review of all personal income tax returns for errors under the direct supervision of the Licensed Tax Consultant or a Licensed Tax Preparer chosen based on experience and reviewing ability; and
 - (B) Giving notice to the Licensed Tax Preparer of any adjustments after examination and review; and
 - (C) Maintaining in principal and branch offices current federal and state personal income tax reference material; and
 - (D) Providing access to the Licensed Tax Consultant (including telephone or electronic media access from branch offices) so that the Licensed Tax Preparer is encouraged to seek tax law consultation and advice; and
 - (E) Exercising control by the Licensed Tax Consultant over the tax preparation practices and all other matters governed by the statutes and Board rules in each principal and branch office.

(2) Licensed Tax Preparers who have not had at least 240 hours and one (1) year's tax return preparation experience during the previous three (3) year period must be under the immediate, onsite supervision of more experienced personnel when preparing, advising, or assisting in the preparation of tax returns.

(3) Licensed Tax Consultants who employ any person described in subsection (4) of ORS 673.610 to act in the capacity of Licensed Tax Preparer or Licensed Tax Consultant

under their supervision shall report to the Board the names of these persons and the basis for their exemption from licensure.

(4) If a Licensed Tax Preparer is found by the Board to be in violation of the statutes or Board rules, the Licensed Tax Consultant responsible for supervision of that Licensed Tax Preparer shall be deemed to be in violation in the same manner and to the same extent, and may be disciplined by the Board regardless of any discipline imposed on the Licensed Tax Preparer, unless the Licensed Tax Consultant demonstrates to the satisfaction of the Board that the circumstances that led to the violation occurred without the permission or knowledge of the Licensed Tax Consultant and that the violation occurred regardless of an adequate system of supervision that would generally prevent such violation. In the case of a corporation, firm, or partnership, both the Designated Consultant and the corporation, firm, or partnership may be disciplined.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented:ORS 673.615(2)

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 2-1996, f. & cert. ef. 12-30-96; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, f. & cert. ef. 2-5-09, f. & ef. 2-1-10, f. & ef. 2-1-11

800-025-0060

Consultant in Residence

(1) A Licensed Tax Consultant shall be in residence at each principal and branch office. "Tax consultant in residence" means that a Licensed Tax Consultant is physically present to conduct and carry out his/her duties in the principal or branch office for at least 50 percent of the time an office is open to the public for tax preparation, assistance and advice during each week from January 1 to the federal filing deadline without extension and during each month for the remainder of the year for year round offices in accordance with OAR 800-025-0050.

(2) The Board may waive the Licensed Tax Consultant in residence requirement of subsection (1) upon written application which details how the management and supervision of principal and branch offices will effectively be accomplished.

(3) In granting or denying a written application for waiver, the Board shall evaluate each case on an individual basis, considering the following factors:

- (a) Distance between offices supervised by a Licensed Tax Consultant.
- (b) Past compliance of waiver applicants with ORS 673.605 to 673.735 and rules of the Board.
- (c) Whether the policies and procedures described in the application will result in effective management and supervision of Licensed Tax Preparers in the absence of a Resident Consultant.
- (d) Sickness or death of a Licensed Tax Consultant; and
- (e) Any other unusual or unforeseen circumstances making such waiver necessary.

(4) Applicants shall apply annually for waiver of the resident consultant rule. The application shall provide all of the information described in guidelines established by the Board for applying for waivers. Except in emergency circumstances, such as incapacitation, death or resignation of a resident tax consultant, waiver applications will not be accepted after January 31 for branch offices intended to operate at any time during the period January 1 to the federal filing deadline without extension of the same

calendar year. Approved waivers shall expire on the expiration date of the associated tax business registration or a date established by the Board.

(5) All applications must be acted upon by the Board. Disapproval of an application by the Board may be appealed.

(6) The supervising Licensed Tax Consultant of an office for which a waiver has been approved shall meet in person with Licensed Tax Preparers in the office at least twice weekly to review the work of each Licensed Tax Preparer and respond to questions.

(7) A tax preparation business shall notify the Board within 15 business days of any change in status of its Resident Consultant.

Stat. Auth.:ORS 673.730(5)

Stats. Implemented:ORS 673.615(2)4

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 5-1986, f. & ef. 10-6-86; TSE 6-1987, f. & ef. 10-2-87; TSE 3-1988, f. & cert. ef. 8-26-88; TSE 5-1995, f. & cert. ef. 5-5-95; TSE 2-1996, f. & cert. ef. 12-30-96; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09, f. & cert. ef. 2-1-11

800-025-0070

Keeping of Records

(1) If a Licensed Tax Consultant is employed by another Licensed Tax Consultant, the records shall be kept by the employing Licensed Tax Consultant.

(2) If the Licensed Tax Consultant who has been designated as responsible for the tax return preparation activities and decisions of the corporation, firm or partnership, ceases to be connected with the corporation, firm or partnership the records shall be retained by the corporation, firm or partnership.

(3) The records of the returns shall be kept for a period of not less than four (4) years after the date of the preparation, advice or assistance.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0070; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, f. & cert. ef. 2-5-09