

BOARD OF TAX PRACTITIONERS

DIVISION 10 - CODE OF PROFESSIONAL CONDUCT

[] – Bracketed and *italicized* = propose to take the wording out
BOLD – Bolded text = propose to add wording in

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.

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 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]* **additional** personal services *[of]* **by** 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]* **other** 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 **and IRS/OR tax worksheets**; *[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.

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 returns filed on behalf of a client, at least one (1) copy of the complete set of the tax returns, including all accompanying forms and schedules, **specifically depreciation schedules and IRS/OR tax worksheets** shall be supplied to the client. A licensee is not required to provide 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.

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). **In addition, [L]licensees and non-licensed business owners** 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 **in writing** within 15 business days.

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 firms 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] **40N & 40P**.

(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#".

(7) All individual advertising must include licensee's board issued LTC or LTP license number written as: "LTC#" or "LTP#".

BOARD OF TAX PRACTITIONERS DIVISION 15 - EDUCATION

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 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/**electronic 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.

BOARD OF TAX PRACTITIONERS DIVISION 20 - PROCEDURES

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~~] **\$100**.

(5) The fee for renewal [~~for~~] **of** a tax preparer's active license is [~~\$80~~] **\$70**.

(6) The fee for issuance or renewal of a tax consultant's active license is [~~\$95~~] **\$85**.

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

\$55.

(8) The fee for [*an initial combination consultant*] a **combination tax consultant's initial** license/tax preparation business registration, if an applicant holds an active preparer's license is [~~\$125~~] **\$115.**

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

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

(11) The fee for reactivation of a tax preparer license in inactive status is [~~\$80~~] **\$70.**

(12) The fee for reactivation of a tax consultant license in inactive status is [~~\$95~~] **\$85.**

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

(14) The fee for a duplicate practitioner's license is \$10.

(15) The fee for a duplicate business/**branch** registration is \$10.

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

(17) The fee for issuance or renewal of a tax preparation business registration is [~~\$110~~] **\$100.**

(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~~]

\$145:

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

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

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

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

(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.

800-020-0065 - Displaying of Licenses

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

**BOARD OF TAX PRACTITIONERS
DIVISION 25 - TAX PREPARATION BUSINESSES**

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) All tax preparation businesses shall comply with State Fire Marshall Address Identification requirements.

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 **in writing** within 15 business days of any change in status of its Designated Consultant.

(8) A Designated Consultant shall notify the Board in writing within 15 business days of any change in their status as Designated Consultant.

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 **in writing** within 15 business days of any change in status of its Resident Consultant.

(8) A Resident Consultant shall notify the Board in writing within 15 business days of any change in their status as Resident Consultant.

(New Rule) 800-025-0080 – Custodian of Record

Still researching - NO adoption to be submitted at this time.