



IN THIS ISSUE

Message From the Board Chair	1
2010-2011 Annual Calendar	2
Message From the Executive Director	3
Web Address Change!	4
Message From the Compliance Desk	5
Changes to Renewal Notifications	7
Message from the Exam & Education Coordinator	8
Message from the Licensing Specialist	9
Outreach Meeting	9
Sad News	9
The 50-Minute Hour	10
Obligations of a Tax Professional	11
New Board Members	12
Ethics and LTCs & EAs	13
DOR Compliance Project	18

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TAX BOARD BULLETIN

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IMPORTANT! NEW WEB ADDRESS - SEE PAGE 4

www.oregon.gov/OBTP

Message From the Board Chair

~ Dorothy Hudson ~

Wow! Have I been on the Board for two years? How time flies! This has been a busy two years for the Board. I am looking forward to serving as Chair and am grateful for the knowledge of the staff and the other Board members. I am also looking forward to serving with Jess Gutierrez as my Vice-Chair.

We welcomed two new Board members, Margaret Atchison and Dea Williams, and look forward to working with them. We will miss the wisdom and advice of the two retiring members, Merry VanAtta and Marilyn Johnston, and wish them well as they find a little more time in their days.

It was good to hear the results of the initial compliance report, stating that 96.8% of licensees were in compliance with tax filings and payments. Good job!

Just when we thought we had things settled down a bit they decide on national licensing. I don't think it will be quiet for quite a while. Don't forget—anyone who prepares, or assists in the preparation of income tax returns will be required to register with the IRS. The IRS has indicated that registration of your current PTIN number, or application for a number, is slated to begin September 1, 2010. All affected persons (CPAs, EAs, and attorneys included) must register

prior to December 31, 2010. Registration prior to that date allows for a three year time span to take the federal exam. After that date, you must pass the exam to register and receive your PTIN. Look for additional information or details from the IRS.

The Board has held two meetings, and two teleconference calls since the last newsletter. We had two committee meetings in June. The Exam and Education Committee met to discuss changes to exams and licensing. The Administration Committee met to discuss necessary changes to administration and the proposed budget for the next biennium. Their reports were presented at the July 29, 2010 Board meeting in Salem. The minutes will be available on the Board's Web site.

I encourage all licensees to be more active in the affairs of the Board. Whether you attend Board meetings (we would love to have you), or correspond with Board members (our e-mail addresses, phone numbers, etc. are on the Web site), your input is invaluable. Keep yourself informed by watching the Web site; the minutes of each meeting are posted there for you, along with articles and other important information. Our next Board meeting will be on September 23, 2010. Hope to see you there!

Board of Tax Practitioners

3218 SE Pringle Road #120, Salem, Oregon 97302

2010/2011 Annual Calendar

All meetings are open to the public unless otherwise stated. The Tax Board encourages interested licensees to attend any public meeting. Your input is appreciated!

Meeting notices and agendas are located on the Tax Board Web site at www.oregon.gov/OBTP approximately two weeks prior to the scheduled meeting date. A map and directions to the Board of Tax Practitioners office, which is located in the Morrow Crane Building, is available via our Web site. If notices and agendas have not been posted, please e-mail the Board office at tax.bd@state.or.us to find out when they will be posted.

Pursuant to ORS 192.660(1), Executive Sessions are closed to members of the public.

Month / Time	Topic	Location	Comments
2010			
January 7 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
May 11 th & 12 th	Exam Work Sessions	Salem Morrow Crane Building	Exam Work Sessions Executive Session
May 13 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
July 27 th & 28 th 9:00 a.m.	Exam Work Sessions	Salem Morrow Crane Building	Exam Work Sessions Executive Session
July 29 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
September 23 rd OUTREACH MEETING	Board Meeting	ODOT Human Resource Center, Salem, OR	Public Welcome
September 23 rd OUTREACH MEETING	Licensee Luncheon	ODOT Human Resource Center, Salem, OR	Licensee Luncheon
November 4 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
December 11 th 9:30 a.m.	Board Administered Examination	Winema Place NW Center Building 50 4061 Winema Place NE Salem, Oregon	Space availability is 275 candidates. Application deadline: November 11, 2010.
2011			
January 6 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome

- Meeting times and locations are subject to change. Please refer to the following URL for up-to-date information: http://www.oregon.gov/OBTP/public_meetings.shtml
- Committee meeting dates, times and locations will be scheduled as needed.

TAX BOARD BULLETIN

Message From the Director

~ Ron Wagner ~

What's In Your Future?

Many of us would love to look into a proverbial crystal ball to see our futures. Of course I can't tell you what's in your future, but I can certainly make a few suggestions.

- Attend the Board's outreach meeting September 23, 2010. The Board meeting and luncheon will be held at the ODOT Human Resource Center in Salem. If you attend the luncheon, you will also have an opportunity to ask questions and hear from the Board of Directors and Board staff during lunch.
- Volunteer to help with the Board administered exam in December. Yes, that seems a long way off but we have already begun planning for this busy day. Volunteers help get people to their assigned table, answer questions, and monitor the exam takers while taking the exam.
- Volunteer for the item writing committees. The volunteers review all exam questions for clarity and update them to the next year's laws. This is a two day commitment, and you'll receive CPE credit and a nice lunch.
- Volunteer for the Rules Advisory Committee. Assist the Board staff by reviewing existing and proposed Oregon Administrative Rules. You will receive CPE credit.
- Be a test taker of the Board's new exams. You will sit for the exam just as if you were taking the exam in order to become licensed. You can point out any issues you encounter while taking the exam. You will be on contract with the Board and receive \$75 a day.

National Licensing

Register with the IRS for their new Tax Return Preparers' program before the end of the year. The IRS is planning to open their online registration system for tax return preparers in September 2010. If you register between September and December 31, 2010, you will have 3 years to complete the required testing. If you register on or after January 1, 2011 you will need to complete your testing before you receive your Preparer Tax Identification Number (PTIN). Since this is a federal program administered by the IRS, all questions about the new federal program should be sent to the IRS. For frequently asked questions go to: <http://www.irs.gov/taxpros/article/0,,id=218611,00.html>

The Oregon Board of Tax Practitioners will generally not attempt to answer questions on federal laws, policies or procedures. What we can answer is how the new federal licensing program will affect the Board. My best answer at this point is that there are still more questions than there are answers. Two of the most common questions are:

Question: Is there a reason for the Board to continue to exist?

Answer: Yes. The Board will still need to provide testing to maintain the high competency and standards we have required for years. The Board will maintain its compliance efforts to protect Oregon taxpayers and ensure practitioners in Oregon are properly licensed.

Question: Is there any reason for the Board to continue testing in Oregon?

Answer: I answer this question with these questions. What will the federal exam look like? How many questions will it contain? How comprehensive will the exam be? No one knows

TAX BOARD BULLETIN

(Continued from page 3)

Message From the Director ~ Ron Wagner ~

the answers to these questions at this time. Therefore, until we know more, our exams will not change and our exam process will remain the same.

Opportunity for You Creative Types

Will you be the designer of the next swoosh? We would like to have a logo that would create some identity for the Oregon State Board of Tax Practitioners. So we would like to offer all of you the opportunity to use your creative talents to submit your entry for the Board's new logo. You say you're not creative? Maybe you have a son, daughter or grandchild who would love the chance to create the logo.

What are the rules? None really. It should be something unique, distinct, not already have a copyright, and with time, be recognized as the symbol for the Board. It could be used on the Board's letterhead, brochures and posters— anything representing the Board. We will announce and give credit to the person who creates the selected logo when the logo is released. So get the creative juices flowing and submit your logo to tax.bd@state.or.us by September 1, 2010. I look forward to unveiling our new logo that YOU created in the near future.

Complete the Board's Survey

A communications survey was sent to all licensees (about 3,900) right after the filing season ended. We received fewer than 50 responses. Your

responses to the Board's survey are important to us and will help determine what actions the Board takes in its communication efforts. So we are giving you a second chance to respond to our survey. We will send the survey out again in August. Please keep an eye out for the survey and provide us with your thoughts and ideas. The survey only takes about 10 minutes, but will provide invaluable information for the Board.

What's in the Board's future?

We are well underway in creating the budget for the next biennium. On the revenues side we don't expect any changes. I am happy to announce there will be no changes to licensing fees or business fees for the next year.

On the expenses side we are proposing two new items. The first is to create a new half-time position for an office assistant. This person would relieve the current staff of many routine office duties freeing us up to concentrate on more important issues and duties. The second proposal is to provide funding in order to contract with a public awareness firm to increase the public's awareness of the Board's existence and the protections offered to the public by the Board.

It is said that if you are bored with life it is not for lack of opportunities. So create some new excitement and look to join in on one of the opportunities listed above, or one you find on your own, because life should never be boring.

WEB ADDRESS CHANGE

The Board's Web address is changing to align more with our name. The new address is www.oregon.gov/OBTP, for Oregon Board of Tax Practitioners.

There will be a temporary redirect in place to help people with the previous link (www.oregon.gov/OTPB) continue to find our new Web address.

TAX BOARD BULLETIN

Message From the Compliance Specialist/Investigator ~*Monica J. Walker*~

Update on Tax Season Field Visitations

This tax season there were a total of forty-nine field visitations made. It was nice to be able to reach out to areas of the state that we don't usually see, and to be able to put faces with the names we have heard and the licensees we speak to over the telephone. For the most part, licensees were in compliance with all laws and rules governing their industry, and only a few violations were found. The bulk of the warnings issued reflected requirements that had recently been

changed during the February 2010 permanent rule filing.

Areas visited were: Beaverton/Tigard area; central, northern and southern coast, the King City/Sherwood area, Portland, Roseburg, Silverton, Woodburn, Salem/Keizer area, and southern Oregon.

Details on the findings of the visitations are as follows:

Violations Found – Six (6)

Violation Type	Counts
Management and supervision of tax preparation business [673.615(2)]	Four (4)
Unregistered branch office [800-025-0030(1)]	One (1)
Failure to comply with resident consultant (RC) requirements [800-025-0060]	One (1)

Warnings Issued – Thirty-two (32)

Warning Type	Counts
Failure to post practitioner's license(s) in public view [800-020-0065]	Six (6)
Failure to post business/branch registration in public view [800-025-0029 & 0030(8)]	Twelve (12)
Failure to post basic fee schedule (<i>if offering a discount</i>) [800-010-0050(5)]	Ten (10)
Failure to file changes in RC/DC within 15 days of the change [800-025-0040(7)]	Two (2)
Failure to file changes in business owner and/or name [800-025-0020(2)]	One (1)
Confidential information handling [800-010-0020(1)]	One (1)

The Investigation Process

The investigation process is unique for each complaint filed. The steps taken in each investigation vary, depending on the circumstances or information received. Each investigation has similar components, including the first step of contacting the licensee that the Board has received a complaint on. This conversation includes a discussion pertaining to the details of the complaint and information received from the complainant. At that time, the licensee is given an opportunity to respond to the complaint

and participate in the plan for mediation as well as the resolution of the complaint. The goal is to end the complaint at the first stage with an agreement between the licensee and their customer. If an agreement is not achieved, then the investigation of the complaint will continue until compliance is obtained and/or a resolution between the parties is reached. Compliance/resolution of a case may include the issuance of a Notice of Intent to Impose Discipline if a violation(s) is found.

TAX BOARD BULLETIN

(Continued from page 5)

Message From the Compliance Specialist/Investigator ~*Monica J. Walker*~

As part of the investigation process, we have added opportunities to use the new tools granted to us by the last legislative session. One of the tools we are currently utilizing is our increased ability to share information with the Oregon Department of Revenue (DOR) due to the passage of SB 690. <http://www.leg.state.or.us/09reg/measures/sb0600.dir/sb0690.en.html>

The Board would like to encourage licensees to come forward with any information they may have regarding activities that are in violation of the requirements as well as thank all licensees for their assistance in resolving complaints. Please continue to keep us posted by phone at (503) 378-4034 or (503) 378-4860, fax (503) 378-2757, or via e-mail at tax.bd@state.or.us.

Disciplinary Actions/Final Orders The Process Explained

Ever wonder what all those legal terms in Board disciplinary actions mean? We welcome this opportunity to explain the process. First, the goal of the Board is to not embarrass a tax practitioner who is operating legally by making a situation public which can be resolved by mediation. However, there are circumstances where the Board is obligated to notify the public of issues under its jurisdiction.

After a thorough investigation, if the Tax Board has evidence and believes that violations of its laws or rules have occurred, it may issue a **Notice of Intent to Discipline**. This notice is a public document filed to notify the person and the public that the Board intends to take action on someone. It is a preliminary document and is in no way a final disposition of a case.

Once a person receives this notice, he or she may ignore it. If it is ignored, a **Final Order by Default** is issued by the Board with sanctions; such as, the fines and penalties brought up in the Notice of Intent to Discipline, will most likely be imposed.

If the recipient chooses not to ignore the Notice of Intent to Discipline, they may decide they would like to settle the case without going to hearing by making an offer to the Board for settlement that results in a **Settlement Agreement and Stipulated Final Order**, which both the Board and the respondent agrees to.

The recipient may also file a request for hearing. After a hearing is heard by a hearings officer who is employed by the Office of Administrative Hearings, the hearings officer issues a **Proposed Order**. The Board reviews the Proposed Order and it can either ratify the hearing officer's Proposed Order or make any changes it deems appropriate. The Board has final decision making authority for all of its cases, and issues a Final Order on the case. The recipient then has 60 days to accept the Final Order and sanctions, or he/she can appeal the matter to the State Court of Appeals. When appealed, the court decides whether to agree with the Board or to modify the Final Order. If no appeal is requested, the **Final Order** is permanent and binding after 60 days.

As always, don't hesitate to contact me if you have questions, concerns or need any compliance information. Phone (503) 378-4860, or e-mail monica.j.walker@state.or.us.

For an updated list of violations, please refer to the following URL: http://www.oregon.gov/OBTP/docs/Forms/disciplinary_actions_current.pdf

TAX BOARD BULLETIN

Changes to Renewal Notifications

~ *Monica J. Walker* ~

A few changes were made to the 2010 renewal notifications. Although, Licensed Tax Consultants (LTCs) may have already noticed these changes, Licensed Tax Preparers (LTPs) have yet to receive their renewal notifications. The following is a list of new items to look for:

- 1) The Board office has a new fax number: (503) 378-2757. The old fax number, (503) 378-3575 can still be used as a back-up.
- 2) Options to retire and/or close a business registration were moved to the top of the form.
- 3) An option to have your e-mail address released to tax schools and organizations was added.
- 4) *Compliance section questions were modified and an additional question was added.
- 5) Per licensee requests, additional lines were added to the Continuing Education Report table.
- 6) Adjustments were made to the renewal

payment information section and it was placed at the bottom of the form.

**Please note: The compliance section must be completed or your renewal will be rejected. In addition, if you answer 'YES' to any of the questions listed, you must attach a detailed explanation and provide date(s), location and nature of offense(s). The more detailed information provided, the more quickly the Board can make a determination regarding the case. Your documentation will be reviewed, and the Board will make a determination regarding the renewal of your license. You will be notified of the Board's decision and, if approved, your license will be renewed. If your case has already been reviewed by the Board, you do not need to attach the explanation again, however you MUST continue to answer 'YES' for subsequent renewals. Failure to answer 'YES', may result in civil penalties for violating the Code of Professional Conduct.*

If you have any questions regarding the renewal notification and/or renewal process, please contact the Board office by phone at: (503) 378-4034, fax (503) 378-2757, or via e-mail at tax.bd@state.or.us.

Green License Certificates

If you are a licensed tax consultant (LTC), you should already have received your new 2010 license certificate. Because license colors are rotated annually, this year's consultant and preparer licenses will be printed with a green background color to show a differentiation from last year's license.

Oregon Administrative Rule **800-020-0065 Displaying of Licenses** states that "Licensed Tax Consultants and Licensed Tax Preparers shall display their licenses in public view in their place of business."

TAX BOARD BULLETIN

Message from the Exam & Education Coordinator

~Jane Billings~

Requirements for Splitting CE Certificates Between Two Renewals

Licensees may split qualifying continuing education (CE) hours between two renewals if the CE certificate is earned during the month of renewal, which is May for consultants and September for preparers. To split CE hours, the licensee must clearly indicate on the renewal and CE certificate that they are splitting CE hours between two license renewal years and state how many CE hours they are using for each license renewal.

It is the licensees' responsibility to retain CE certificates for at least two years following each continuing education cycle. This requirement

ensures that proof of attainment of required continuing education is available for annual audit by the Board. **Please do not send copies of CE certificates with your renewal form.** Licensees are only required to submit CE documentation if they are notified during the audit period. Failure to comply with a CE audit within the prescribed time shall constitute grounds for disciplinary action.

To learn more about CE requirements and the necessary responsibilities of licensees, instructors and CE providers, refer to Chapter 800, Division 15 of the Oregon Administrative Rules.

http://arcweb.sos.state.or.us/rules/OARS_800/OAR_800/800_015.html

Important Changes to the Oregon Administrative Rules

Effective **February 1, 2010** the following major changes, along with other lesser alterations, were made to Chapter 800 of the Oregon Administrative Rules:

OAR 800-010-0025

Integrity and Objectivity

Requires that a licensee must be current on their personal income tax return filings and all tax payment plans before a license can be issued or renewed.

OAR 800-010-0050

Advertising and Solicitation

Specifies mandatory forms and schedules to be included on the basic fee schedule that is posted in the place of business and made available to the general public.

OAR 800-015-0020

Continuing Education Program Requirements

Clarifies 1 hour CE programs are the equivalent to a 50 minute education hour.

OAR 800-025-0050

Management and Supervision of Tax Preparation Business

Requires that licensed tax preparers who have not had at least 1 year tax preparation experience during the previous 3 years must be under the immediate, onsite supervision of more experienced personnel when preparing, advising, or assisting in the preparation of tax returns.

Previously the rule specified 5 years.

To read or download Chapter 800 of the Oregon Administrative Rules in its entirety see:

http://arcweb.sos.state.or.us/rules/OARS_800/OAR_800/800_tofc.html

TAX BOARD BULLETIN

Message from the Licensing Specialist

~Marika Dwyer~

Please be as complete as possible when filling out renewal applications. Include full dates in the CE (Continuing Education) report. Write as legibly as possible.

Please DO NOT include CE certificates or copies of these certificates with your renewal.

Retain these for your records for two years in the event that you are audited by the Board for CE. Licensees are only required to submit CE documentation if they are notified during the audit period.

Except for renewal of an initial license, a Licensed Tax Consultant or Licensed Tax Preparer renewing a license shall submit evidence of attending at least 30 hours of acceptable CE since the last renewal date. These hours may not be used again if they were used for past renewals. CE credit will be accepted only for whole hour increments and for courses and seminars that comply with all Board rules regarding continuing education.

It is the licensees' responsibility to retain CE certificates for at least two years following each CE cycle. This requirement ensures that proof of attainment of required CE is available for annual audit by the Board. Failure to comply with a CE audit within the prescribed time shall constitute grounds for disciplinary action.

To find out more about CE requirements and the necessary responsibilities of licensees, instructors, and CE providers, refer to Chapter 800, Division 15 of the Oregon Administrative Rules. http://arcweb.sos.state.or.us/rules/OARS_800/OAR_800/800_015.html

THE TAX BOARD OUTREACH MEETING

The Board will hold its annual outreach meeting and licensee luncheon in Salem on September 23, 2010. We would like to invite everyone to attend. The licensee luncheon will be that same day. An invitation will be sent out to licensees in the area to attend the lunch. The Board meeting will start at 9:00 a.m. The meeting will be held at the ODOT Human Resources Center in Salem. Please see the Board Web site for future updates and more details regarding this event. We hope to see everyone there.

SAD NEWS

The Board's prior Executive Director, Duane Hunter, passed away on March 22, 2010. Prior to coming to the Board, Duane worked for the Department of Revenue for 16 years as a revenue agent. In November 2003 he was hired as the Board's investigator. Duane then served as interim Director in November 2006, and served as the Executive Director from January 2007 until February 2008. Duane will be remembered for his sense of humor and infectious smile.

NEWSLETTER SCHEDULE

Newsletters will be prepared and released on the following dates: July 31st and November 15th. If you would like to see articles concerning certain topics and/or updates included within our newsletters, please contact the Board office at (503) 378-4034.

TAX BOARD BULLETIN

The 50-Minute Hour

~ *Janis Salisbury* ~

Questions often arise about the interpretation of the 50-minute hour. What does it actually mean?

The Administrative Rule referred to is OAR 800-015-0020 (4), “Programs must be at least one (1) 50-minute education hour with credit given in whole hours only.”

As has been said, “Don’t try and make a mountain out of a molehill.” 50 minutes means just that. In order to qualify for an hour of continuing education credit, one must attend approximately 50 minutes of instruction time within a 60-minute hour. CPE credit is accepted by the Board of Tax Practitioners only in increments of whole hours—no half hours qualify.

If an attendee arrives late, but within a reasonable time (10 minutes) after the start time at the beginning of the seminar, it has generally been accepted that the whole hour will still qualify. This goes along with the fact that the opening involves more than actual instruction, and logic says that by being a few minutes late, one misses very little. If an attendee arrives more than 10 minutes after the start time, the attendee will not qualify for certification for that hour of instruction.

This also applies to the other end of the day when attendees choose to leave the end of that 60-minute hour early. If an attendee leaves more than 10 minutes early, they will not get credit for that hour.

This leads us into another part of the discussion about the 60-minute hour. Adherence to breaks that exactly match the 50/60-minute timeline is not written in stone. This is especially true when the session is two hours or more in length. The total time of instruction needs to be the total of two 50-minute hours within the two actual hours (100 minutes of instruction within 120 minutes of attendance).

A typical scenario is this. A two-hour class is scheduled from 2:00 p.m. – 4:00 p.m. Instruction is given from 2:00 p.m. – 3:10 p.m. A 20-minute break is taken from 3:10 p.m. – 3:30 p.m. Then another 30 minutes of instruction are given. The class qualifies each attendee to 2 hours of continuing education.

Bottom line, don’t try and make this issue harder than it is. Treat the timeline with logical sense.

Obligations of a Tax Professional

~ Jess Gutierrez ~

Recently, two very different pilots made national news headlines. The first pilot, Captain Sully, safely landed his plane on the Hudson River and became a national hero. The second pilot, Captain Timothy Cheney, entrusted his plane to autopilot, flew past his airport destination and lost his job.

As outside observers of both stories, we can marvel at the skill of Captain Sully and condemn the incompetency of Captain Cheney. And why not, Captain Sully exhibited the skills of a lifetime of experience and training in aviation. Captain Cheney let his plane do the flying for him.

With that thought in mind, let's turn our attention to our own profession. Preparing a tax return is not the same as piloting a plane, but interesting parallels can be made. Just as a pilot can engage autopilot to assist in flying a plane to a destination, a tax preparer will use his or her computer to assist with the preparation of a tax return. And just as a plane on autopilot can miss its destination, a preparer who lets his or her computer do the thinking will miss important details that will land a tax client in trouble.

As tax professionals, we take the financial lives of our clients into our hands. It is our duty to give our clients competent and ethical tax preparation services. Now, turn the mirror and take a look at yourself. Are you the best preparer you can be? Here is a simple test to help you decide if you are the Sully or Cheney of your profession.

1. I am preparing a tax return for a client

and come across a tax situation I am not sure about. What do I do?

- a. Ask the preparer sitting next to me for advice.
- b. This rarely happens for me because my computer is smart enough to answer tax questions for me.
- c. Open up IRS publications to research for the correct answer. When I can't find an answer, I seek advice from my LTC and then do further research.

2. The standard practice where I work for preparing and reviewing tax returns is:
 - a. I work from tax organizers and documents provided by my client. I do not interview my client. When I am finished preparing a return, I print the return and deliver it to my client.
 - b. I collect information from tax documents provided by my client. I interview my client and enter data in the computer. I print and deliver the tax return to my client. My work is not reviewed by another LTC or LTP.
 - c. I interview my client, review tax documents, enter data into my computer and review the results with my client. My return is then forwarded to my LTC who reviews my work and gives me feedback on corrections, adjustments or omissions on every return I prepare.
3. My priority for selecting CPE is:
 - a. I only work part time so I look for the cheapest CPE I can find.

TAX BOARD BULLETIN

(Continued from page 11)

Obligations of a Tax Professional

~ *Jess Gutierrez* ~

- b. I prefer to attend live seminars where I don't have to think.
 - c. I seek out high-quality CPE programs that challenge my abilities and improve my skills as a preparer.
4. National registration of tax preparers begins in 2010. All paid preparers who are not CPAs or EAs must pass IRS tests by 2014. How do you feel about this?
- a. As an Oregon licensee, I have already passed a test. I think I should be grandfathered in and should not have to study for or pass an IRS test.
 - b. National testing is a waste of time. Bad preparers will still be out there and IRS testing will not change this.
 - c. Bring it on! I am happy to take IRS tests. I am ready to improve my tax

knowledge, and my goal is to achieve the highest score I can get.

If you answered "c" to all four questions, you are demonstrating adherence to a professional code of conduct which will allow you to reach the top of your profession.

As tax professionals, we should celebrate IRS efforts to improve the competence of tax professionals and at long last bring professional recognition to our industry. As tax professionals, we must strive to find the very best educational programs, adhere to the highest level of professional ethics, and challenge ourselves to deliver the highest quality service to our clients. By meeting our professional obligations we can be the Sullys of our profession.

New Board Members

Olivia Dea Williams

Dea has been a tax accountant (Enrolled Agent, licensed to practice before IRS) and an Oregon Licensed Tax Consultant for 25 years. She is the founder and president of Williams, Williams & Company in Salem, a bookkeeping, payroll and tax service. In June 2009, Dea merged her practice with Vanlue, PC, Certified Public Accountant, and now contracts with that firm as a tax and business consultant. Williams, Williams & Company remains active, specializing in business consulting and tax representation.

Dea holds a master's degree in taxation from the Washington School of Law in Provo, Utah, and a bachelor's degree in accounting and economics from Western Oregon University in Monmouth. She is a fellow of the National Tax Practitioners Institute.

Dea and her husband, Ron, have been married for 25 years and have four children and eight grandchildren. They are deacons of the Presbyterian Church. They are also involved in Salem Downtown Lions Club, Salem City Club, and Salem Chamber of Commerce.

TAX BOARD BULLETIN

New Board Members

Margaret Atchison

Margaret is an Enrolled Agent and Licensed Tax Consultant with over 40 years of experience in the tax/accounting industry. She has been an Enrolled Agent since 1987. She is a fellow of the National Tax Practice Institute of the NAEA Education Foundation. She also graduated from the National Tax Education Institute. Margaret is a 2003 graduate of Leadership Bend and serves on the board of advisors of the American Academy of Tax Practice and the board of directors of the Oregon Society of Enrolled Agents. She is also licensed to operate as a

private career school by the Oregon Department of Education.

Margaret wrote a book called *Real Estate and Taxes*, and is a speaker on tax topics for many tax organizations. She specializes in tax representation in collections and appeals taxpayers' cases before the Internal Revenue Service and state agencies.

The Board is excited to have these two highly qualified licensees serve on the Board of Directors.

LICENSEES MAY NOW SUBMIT ARTICLES OF INTEREST
THAT ARE APPROPRIATE FOR INCLUSION
IN THE TAX BOARD BULLETIN NEWSLETTER.

Ethics of Tax Preparers and Enrolled Agents in Oregon ~Annette Saarinen~

Ethics Defined

In the plural, *ethics* is defined as “1. a system of moral principles: the ethics of a culture. 2. the rules of conduct recognized in respect to a particular class of human actions or a particular group, culture, etc.

Source: Webster's Encyclopedic Unabridged Dictionary of the English Language, Gramercy. Books, New York, 1983

While the word *ethics* is not used in the Oregon Administrative Rules (Chapter 800 regarding the State Board of Tax Practitioners) or the Oregon Revised Statutes on Income Tax

Service Law (Chapters 673.605 to 673.740 and 673.990), the rules specifically address the expected conduct for Licensed Tax Preparers (LTPs) and Licensed Tax Consultants (LTCs) in Oregon. The Oregon Administrative Rules will be abbreviated “OAR” and the Oregon Revised Statutes will be shortened to “The Statutes” in this article. The State Board of Tax Practitioners will be shortened to “The Board.”

For Enrolled Agents (EA—one who is enrolled to practice before the Internal Revenue Service) the Treasury Department

TAX BOARD BULLETIN

(Continued from page 13)

Ethics of Tax Preparers and Enrolled Agents in Oregon

~Annette Saarinen~

has issued a booklet, *Circular No. 230 (Revised 4-2008)* which is titled: *Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, Enrolled Retirement Plan Agents, and Appraisers before the Internal Revenue Service.*

Source: The Department of the Treasury, Internal Revenue Service, Title 31 Code of Federal Regulations, Subtitle A, Part 10, published September 26, 2007.

This booklet mentions *ethics* only in the listing of educational requirements for the above professionals. It states “An individual who receives initial enrollment during an enrollment cycle must complete 2 hours of ethics or professional conduct for each enrollment year during the enrollment cycle.”

The National Association of Enrolled Agents, in their renewal form, requires a Continuing Professional Education (CPE) attestation that the member has completed 30 hours of education per calendar year, including 2 hours of ethics. The ethics education is based on the rules in *Circular 230*.

The Oregon the Board of Tax Practitioners regulates the actions of Licensed Tax Practitioners by having the power to issue or revoke licenses, and to order certain rectifying actions. The Board members are appointed by the Governor.

At the federal level, the Internal Revenue Service has established the Office of Professional Responsibility (OPR). The

Director of OPR is appointed by the Secretary of the Treasury. The OPR has the same powers at the federal level as the Board does at the state level.

Both EA and LTC programs have testing requirements to become licensed. Their wording is similar in that:

A) An EA applicant demonstrates special competence in tax matters by written examination and has **not** engaged in any conduct that would justify the censure, suspension, or disbarment of any practitioner.
B) An LTC has passed the Board’s written exam and is **not** one who the Board has refused to issue or renew a license on the basis of dishonest conduct or conduct involving tax preparation. Both programs also require 30 continuing education hours each and every year.

The following chart shows some of the similarities and differences regarding actions governed by the EA and LTC programs. Some of the wording has been paraphrased for ease in comparisons. This chart is not meant to be a full rendition of either program’s rules and regulations. It is only to compare described conduct by a licensed tax professional. Please see chart for comparison on pages 15-17.

The wording may be different in each of the agencies, and the topics may be defined more in-depth in one agency than the other, but the intent of each is clear. The intent is to describe ethical behavior by which we model our business practices.

TAX BOARD BULLETIN

(Continued from page 14)

Ethics of Tax Preparers and Enrolled Agents in Oregon

~Annette Saarinen~

Comparison of Rules of Conduct for Oregon Tax Professionals and Enrolled Agents

Action Governed by Statute or Code	Board of Tax Practitioners Oregon Statutes and Rules	Office of Professional Responsibility (IRS codes)
<p>Claiming to be licensed when not</p> <p>Practice of Law</p>	<p>Prohibits use of LTP or LTC designation unless duly licensed</p>	<p>Inactive or ineligible individuals may not state or imply they are enrolled to practice before the IRS. Nothing in the regulations in this part may be construed as authorizing persons not members of the bar to practice law.</p>
<p>Licensing courtesy</p>	<p>An EA can become a LTC if the person has passed the Board exam on Oregon personal income tax law, theory, and practice and the code of professional conduct.</p>	<p>The OPR does not currently recognize the LTC status for EA purposes, although Oregon is the role model for the proposed national licensing of Tax Preparers.</p>
<p>Incompetent and Negligent</p>	<p>1) A licensee is incompetent who has engaged in conduct which evidenced a lack of ability or fitness to perform his or her professional functions. 2) A licensee is negligent who has engaged in detrimental conduct to the client.</p> <p>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.</p> <p>The Board may refuse to issue or renew a license for 1) Negligence or incompetence; 2) Conduct resulting in a conviction of a state or federal felony; 3) Engaging in fraudulent, deceptive or dishonest conduct relating to the licensee's professional practice; 4) Willful failure to pay any tax or estimated tax, file any tax return, keep records or supply information required under the federal or state tax laws; and 5) Signing or verifying of any false or</p>	<p>Reckless conduct is a highly unreasonable omission or misrepresentation involving an extreme departure from the standard of ordinary care. Gross incompetence includes conduct that reflects gross indifference, preparation which is grossly inadequate under the circumstances, and a consistent failure to perform obligations to the client. Incompetence and disreputable conduct is not limited to: 1) Conviction of any criminal offense under federal tax laws; 2) Conviction of any criminal offense involving dishonesty or breach of trust; 3) Conviction of any federal or state felony for which the conduct involved render the practitioner unfit to practice before the IRS; 4) Giving false or misleading information to the Department of the Treasury; 5) Deceiving a client or prospective client in order to procure employment; 6) Willfully failing to make a federal tax return or willfully attempting to evade any assessment or payment of any federal tax; 7) Willfully assisting, counseling,</p>

TAX BOARD BULLETIN

(Continued from page 15)

Ethics of Tax Preparers and Enrolled Agents in Oregon ~Annette Saarinen~

Comparison of Rules of Conduct for Oregon Tax Professionals and Enrolled Agents

	fraudulent list, return, account, statement or other document, or supplying any false or fraudulent information.	encouraging a client in violating federal tax law or suggesting ways for the client to illegally evade federal tax law; 8) Contemptuous conduct in connection with practice before the IRS, including the use of abusive language, making false accusations or circulating or publishing malicious or libelous matter; and 9) Giving a false opinion, knowingly, recklessly, or through gross incompetence, an opinion which is intentionally misleading on questions arising under federal tax laws.
Integrity and Objectivity	<p>1) A licensee shall not knowingly misrepresent facts while involved with the preparation of a tax return. The licensee may resolve doubt in favor of a client if there is reasonable support for the position.</p> <p>2) Upon finding that a client has made an error or omission on a tax return, the licensee shall promptly advise the client of such.</p> <p>3) A licensee shall not engage in fraudulent, deceptive, or dishonest conduct relating to the licensee's professional practice.</p> <p>4) A licensee shall not violate any position of trust, including positions of trust outside the licensee's professional practice.</p>	<p>Tax advisors should provide clients with the highest quality representation concerning federal tax issues. Best practices include the following: Establishing the facts; determining which facts are relevant; evaluating the reasonableness of any assumptions or representations; relating the applicable law to the relevant facts; arriving at a conclusion supported by the law and the facts; advising the client regarding the import of the conclusions reached; acting fairly and with integrity in practice before the IRS.</p> <p>The practitioner should communicate clearly with the client regarding the terms of the engagement. The advisor should determine the client's expected purpose for and use of the advice, and should have a clear understanding with the client regarding the form and scope of the advice or assistance rendered (have the client sign an engagement letter before starting the tax return).</p>

TAX BOARD BULLETIN

(Continued from page 16)

Ethics of Tax Preparers and Enrolled Agents in Oregon

~Annette Saarinen~

Comparison of Rules of Conduct for Oregon Tax Professionals and Enrolled Agents

Returning Client Papers	Upon written request by a client, licensee shall make available or return personal papers or source material in a reasonable time and make available copies of depreciation schedules that support the return.	A practitioner must, at the request of a client , promptly return any and all records of the client that are necessary for the client to comply with his federal tax obligations. The practitioner may keep copies of the records returned to the client.
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.	With some exceptions, a practitioner may not charge a contingent fee for services rendered in connection with any matter before the IRS. These include basing the fee on percentage of refund or taxes saved or achieving a specific result; whether or not a position taken on the tax return avoids challenge by the IRS; or fees to be refunded by the practitioner if a certain result is not achieved.
Fees and Discounted Fees	No licensee shall give or offer to give a discount unless: A) the discount is based upon a conspicuously posted basic fee schedule at the licensee's place of business; B) the fees on the posted basic fee schedule are the usual and customary charges of the business; and C) the posted basic fee schedule is made available to the general public.	Generally, a practitioner may not charge an unconscionable fee for representing a client before the IRS. A practitioner may publish the availability of a written schedule of fees as A) Fixed fees for specific routine services; B) Hourly rates; C) Range of fees for particular services; and D) Fee charged for an initial consultation. Any statement of fee should include a statement disclosing whether clients will be responsible for such costs. A practitioner may charge no more than the rates published over for at least 30 calendar days after the fee schedule was published. Fee schedules cannot be untruthful or deceptive.
Negotiation of Taxpayer Checks	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.	A practitioner who prepares tax returns may not endorse or otherwise negotiate any check issued to a client by the government in respect of a federal tax liability.

TAX BOARD BULLETIN

In Comedy and Compliance, Timing is Everything!

~ Teresa L. Pullen ~

The Board of Tax Practitioners is participating in a pilot project with the Oregon Department of Revenue in support of HB 3082 passed by the 2009 Legislature. The November 2009 newsletter introduced this project.

By now all consultants and preparers have been mailed general letters explaining the project. Some of you have received second letters, encouraging you to file returns and/or make payment arrangements. Our sincere thanks goes out to the Board staff and to you for your continued cooperation with the project.

As a result of your participation, we will be able to provide invaluable information to the 2011 Legislature. Our representatives face difficult decisions ahead about Oregon's taxing structure. Budget shortfalls and funding for essential services both require careful consideration for the best outcome for the greater good. Passage of HB 3082 came about because many other states already require individuals to be in compliance with tax laws in order to renew their licenses. Our elected officials gave us the authority to try this on a very limited basis in Oregon as a pilot project. We are currently administering the pilot and are carefully studying what it will take to expand the tax compliance requirement to all state-issued licenses. What seems so simple, though, simply is not.

Timing is everything. We developed an automated process to check for tax compliance. We double-checked those consultants deemed noncompliant and advised the Board of their compliance status as of a specific point in time. If you were one of those consultants deemed to be out of compliance,

but you took quick action by filing past-due returns or paying tax balances due, you may have received a call from the Board saying that your license would not be renewed. If you were caught in this information exchange timing overlap, we want to thank you for your professionalism in following up with us to make sure your returns or payments had been received. Every person we spoke with understood the constraints of our project. You allowed us to correct these timing issues without much negative feedback. Thank you, thank you, thank you!

One trend that surfaced during our project was a high number of missing 2008 tax returns. We learned that a major software company almost completely crashed on April 14 and 15, 2009, the busiest return transmission days of the season. This probably accounts for the high number of licensees who believed they had filed their 2008 return only to learn that we had no record of receiving their Oregon return. We can easily correct the situation by having you fax or mail return copies to us, along with substantiation of your transmittal attempt. You may want to check your client base to ensure their filings were not lost in transmission as well.

Lastly, watch the OBTP Web site for an upcoming survey to provide your feedback about the compliance project. The survey will be short, responses will be anonymous, and you'll have the opportunity to tell us what you think about this project. The tax compliance requirement is under consideration for all professional licensing in Oregon, so we encourage your feedback. Thank you in advance for taking the survey.