

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) "Client" means a person for whom a licensee performs or agrees to perform professional services for a fee and the services are related directly or indirectly to the client's personal income taxes.
- (3) "Confidential Information" means information furnished to a licensee for, or in connection with, the preparation of a client's income tax return.
- (4) "Designated Consultant" means a **Licensed Tax C[c]onsultant** who is the responsible individual for the preparation of all personal income tax returns prepared for the public for each registered business.
- (5) "Licensee" means a **Licensed T[t]ax C[c]onsultant**, **Licensed T[t]ax P[p]reparer**, or any person, corporation, firm or partnership falling within the purview of ORS 673.605 to 673.735.
- (6) "Resident Consultant" means the **Licensed T[t]ax C[c]onsultant** who is physically present to conduct and carry out his/her duties in the principal or branch office.
- (7) "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.
- (8) "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.
- (9) "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

800-010-0030

Accountability

- (1) A **L[l]icensed T[t]ax C[c]onsultant** or registered business shall only allow persons to practice in the consultant's or business' name who are licensed as tax consultants, tax preparers, or described in ORS 673.610.
- (2) A **L[l]icensed T[t]ax C[c]onsultant** 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 **L[l]icensed T[t]ax C[c]onsultant** does not provide supervision of the tax preparation activities as defined in OAR 800-025-0050.
- (3) A **L[l]icensed T[t]ax C[c]onsultant** or a **L[l]icensed T[t]ax P[p]reparer** shall not state or imply that a **L[l]icensed T[t]ax P[p]reparer** preparing tax returns to which the consultant's license number or business information is affixed is not:
 - (a) Fully subject to the supervision of the **L[l]icensed T[t]ax C[c]onsultant** or registered business; as defined in OAR 800-025-0050; or
 - (b) Acting as agent of the **L[l]icensed T[t]ax C[c]onsultant** or registered business.

(4) A **L**[/l]icensed **T**[/t]ax **P**[/p]reparer shall not engage in the preparation of tax returns, assist in such preparation, gather tax information, or provide tax advice unless the **L**[/l]icensed **T**[/t]ax **P**[/p]reparer is under the supervision of a **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant 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 consultant's or tax preparer's 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 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

800-010-0040

Identification

(1) A licensee shall include the *[licensee's]* business name, 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 of by the Internal Revenue Service, Department of Revenue, and State Board of Tax Practitioners. Office copies are exempt from this requirement.

(2) Where the licensee's signature appears on the tax return, there shall be included the State license number of the **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant responsible for the preparation and the State license number of the **L**[/l]icensed **T**[/t]ax **P**[/p]reparer *[individual]* preparing the return.

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

800-010-0041

Address and Telephone

Licensees shall file with the Board their current residence address, **email address** and telephone number. **Licensees** *[and]* shall also file with the Board their current business address, *[and]* telephone number and a year-round **address and telephone number** *[telephone number and address]* where clients and the Board may contact the licensee. Whenever any of the information required in this section changes, the licensee shall immediately notify the Board.

Stat. Auth.: ORS 673

Stats. Implemented: Hist.: 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 tax services. This includes, but is not limited to, business cards and business stationery of an individual or business that offers such services.

(2) No licensee or tax preparation business shall advertise or solicit clients in a false, fraudulent, deceptive or misleading manner.

(3) All advertising must be in the name of a firm that has complied with ORS 673.643 or in the name of a L[l]/icensed T[t]/ax C[c]/onsultant.

(a) Only a person holding a valid T[t]/ax C[c]/onsultant's L[l]/icense may use the designation "L.T.C." or the titles "Licensed Tax Consultant" or "Tax Consultant."

(b) Only a person holding a valid T[t]/ax P[p]/reparer's L[l]/icense may use the designation "L.T.P." or the title "Licensed Tax Preparer".

(4) All advertising must be reviewed and approved in advance by the designated L[l]/icensed T[t]/ax C[c]/onsultant. The designated L[l]/icensed T[t]/ax C[c]/onsultant and the designating business shall each be responsible for the business's compliance with the provisions of this rule.

(5) 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; and

(b) **The fees on the posted basic fee schedule are the usual and customary charges of the business** [*The posted basic fee schedule is the usual and customary charges*]; and

(c) The posted basic fee schedule is made available to the general public.

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

DIVISION 15 EDUCATION

800-015-0005

Basic Education

(1) An accredited college [*or*] / 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, 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 require that a sponsor applicant 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 is 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 at the option of 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 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

800-015-0010

Continuing Education

(1) Except for renewal of an initial license, a **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant or **L**[/l]icensed **T**[/t]ax **P**[/p]reparer renewing a license shall submit evidence of attending at least 30 hours of acceptable continuing education since the last renewal date.

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

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

(4) 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 may be withheld by the licensee and submitted with the following year's renewal.

(5) 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.

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

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

(8) Correspondence 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.

(9) "In-Company" instruction may be accepted if the course or seminar is presented to ten 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.

(10) 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 days, to make up the rejected hours.

(11) **L**[l]icensed **T**[t]ax Consultants and **L**[l]icensed **T**[t]ax 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.** *[shall, upon written request and approval of the Board, be allowed three additional months, at no extra cost, to obtain the remaining continuing education hours. Prepares will be allowed until December 31 and Consultants until August 31.]*

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 1-1987, 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

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, together with the examination fee. The application must be signed.

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

(3) **Completed basic course certification forms as required under OAR 800-015-0005(6) shall be submitted to the Board by the student with the 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 agency 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.** *[Tax preparer applicants may file an application to take the examination before completing the basic tax course. Applicants who have completed a course of study which has not received prior approval of the Board shall furnish the Board a brief outline of courses completed, together with a transcript from the educational institution. If, in the judgment of the Board, the courses completed are comparable to those described in OAR 800-015-0005, the applicant shall be eligible to take the examination.]*

(4) *Completed basic course certification forms as required under OAR 800-015-0005(6) shall be submitted to the Board by the student with the application for license. If the student has not completed the basic tax course prior to filing the examination application, the student may still submit the exam application.]*

4 [(5)] A tax consultant applicant who is a L[l]icensed T[t]ax P[p]reparer 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 [of] a L[l]icensed T[t]ax P[p]reparer for not less than a cumulative total of 780 hours during at least two of the last five years.

5 [(6)] 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 [of] a L[l]icensed T[t]ax P[p]reparer for not less than a cumulative total of 780 hours during at least two of the last five 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 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 hours credited. To qualify for the one to five hour experience credit, total hours worked in the volunteer program must be verified in writing by a supervisor.

(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 [(7)] 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 hours of work experience earned during at least two of the last five years.

7 [(8)] A tax consultant 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 consultant for no less than two of the last five years; and

(b) Furnish documented proof of self-employment as a tax consultant.

8 [(9)] A tax preparer or tax consultant applicant who has worked in the capacity as [of] a tax **practitioner** [preparer or tax consultant] 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 years prior to the date of application;

(b) The applicant has at least three years experience in a tax preparation business;

(c) In the opinion of the Board, 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 [(10)] The Board may accept education credit for courses completed by a tax consultant applicant to substitute for up to 260 hours of work experience at the rate of one classroom hour of education for five hours of experience if:

(a) The subject matter of the course was related to taxation;

(b) The applicant completed the course within one year of applying to become a L[l]icensed T[t]ax C[c]onsultant; and

(c) Credit for the course is not claimed to fulfill continuing education requirements.

10 [(11)] 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

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

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) If a tax preparer's or tax consultant's 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.

(6) Licenses that have become inactive or lapsed may be reactivated upon receipt of a completed reactivation application form prescribed by the board, proof of required continuing education and the appropriate fee.

Stat. Auth.: ORS 673.730

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

800-020-0031

Certificates

(1) A **L[l]**icensed **T[t]**ax **C[c]**onsultant'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 **L[l]**icensed **T[t]**ax **C[c]**onsultant's license **has** become[s] inactive or lapsed[s], 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

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

800-020-0035

Inactive and Lapsed Status [Licenses]

(1) Except as provided in section (3) of this rule, [*an inactive license*] **a license that has become inactive** may be reactivated upon payment of the 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 become lapsed** [*lapsed license*] may be **reactivated** [*restored*] **to active status** upon 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 become** [*in*] lapsed [*status*] shall not be placed in inactive status.

(3) A license [*shall not be reactivated or restored*] that has [*been*] **become** inactive or lapsed, or a combination thereof, for three consecutive years, **shall not be reactivated to active status**.

(4) The Board may refuse to [*restore*] **reactivate** a **license that has become inactive or lapsed** [*license*] 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

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

800-020-0065

Displaying of Licenses

L/[l]icensed T[t]ax C[c]onsultants and L/[l]icensed T[t]ax P[p]reparers shall display their licenses in a conspicuous place in their place of business.

Stat. Auth.: ORS 673

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

DIVISION 25 TAX PREPARATION BUSINESSES

800-025-0023

Reporting Closing of Business; Address and Phone Changes

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

- (1) Termination of the tax preparation business;
- (2) A change in the address, **email address** or telephone number of the business.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 7-1991, f. & cert. ef. 10-28-91

800-025-0027

Eligibility for Combined 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 of the owners of the business is a L/[l]icensed T[t]ax C[c]onsultant or L/[l]icensed T[t]ax P[p]reparer. As used in this section, "owner" means an individual who owns at least ten percent of the business.

(2) A tax preparation business, including a 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 is submitted:

- (a) If a new registration, at the time of application for the owner's tax consultant's or tax preparer's license;
- (b) If a renewal registration, before the expiration date of the current registration.

(3) A licensee who owns more than one tax preparation business is eligible for a combined license and business registration under OAR 800-020-0025(15) for only one of the businesses and must pay the business registration fee specified in OAR 800-020-0025(14) for the second and additional businesses.

Stat. Auth.:

Stats. Implemented:

Hist.: TSE 9-1991, f. & cert. ef. 10-28-91

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 T[t]ax C[c]onsultant** or other authorized person ("Designated Consultant") as the responsible individual. A form prescribed by the Board shall be signed by the **D[d]esignated C[c]onsultant** and signed by the owner or authorized representative of the tax preparation business.

(2) The license number of the Designated Consultant shall be placed on all tax returns prepared by the tax preparation business.

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

(4) 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.

(5) A **Licensed T[t]ax C[c]onsultant** may act as the Designated Consultant for only one tax preparation business, except by written application for waiver.

- (6) An application for waiver to serve as a Designated Consultant for more than one tax preparation business shall set forth the following:
- (a) The name and address of the tax preparation business for which the **Licensed T[t]/ax C[c]/onsultant** is presently serving as the Designated Consultant;
 - (b) The name and address of the additional tax preparation business for which the **Licensed T[t]/ax C[c]/onsultant** 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.
- (7) In determining whether a **Licensed T[t]/ax C[c]/onsultant** will be approved to act as a Designated Consultant for more than one tax preparation business, the Board:
- (a) May approve an application for waiver only wherein the **Licensed T[t]/ax C[c]/onsultant** 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 T[t]/ax C[c]/onsultant** designation period; and
 - (b) Shall consider the **Licensed T[t]/ax C[c]/onsultant'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.
- (8) A tax preparation business shall notify the Board within ten 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

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 T[t]/ax C[c]/onsultant**. Supervision means:
- (a) The direct and immediate control of the **L[l]/icensed T[t]/ax P[p]reparer** by the **L[l]/icensed T[t]/ax C[c]/onsultant** in such manner that the **L[l]/icensed T[t]/ax C[c]/onsultant** is aware of the line of questioning and the reasoning applied by the **L[l]/icensed T[t]/ax P[p]reparer** in the preparation of each return, and that the **L[l]/icensed T[t]/ax C[c]/onsultant** has adequate opportunity to correct or add to the reasoning applied by the **L[l]/icensed T[t]/ax P[p]reparer**; and
 - (b) A system of selecting, training and controlling the **L[l]/icensed T[t]/ax P[p]reparer**, including a set of procedures by which the **L[l]/icensed T[t]/ax C[c]/onsultant** is assured that the **L[l]/icensed T[t]/ax P[p]reparer** 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 **L[l]/icensed T[t]/ax C[c]/onsultant** or a **Licensed Tax Preparer [licensee]** chosen based on experience and reviewing ability; and
 - (B) Giving notice to the **L[l]/icensed T[t]/ax P[p]reparer** 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 L[l]icensed T[t]ax C[c]onsultant (including telephone or electronic media access from branch offices) so that the L[l]icensed T[t]ax P[p]reparer is encouraged to seek tax law consultation and advice; and
- (E) Exercising control by the L[l]icensed T[t]ax C[c]onsultant over the tax preparation practices and all other matters governed by the statutes and Board rules in each principal and branch office.

(2) L[l]icensed T[t]ax P[p]reparers who have not had at least one year's tax return preparation experience during the previous five 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) L[l]icensed T[t]ax C[c]onsultants who employ any person described in subsection (4) of ORS 673.610 to act in the capacity of a L[l]icensed T[t]ax P[p]reparer or L[l]icensed T[t]ax C[c]onsultant under their supervision shall report to the Board the names of these persons and the basis for their exemption.

(4) If a L[l]icensed T[t]ax P[p]reparer is found by the Board to be in violation of the statutes or Board rules, the L[l]icensed T[t]ax C[c]onsultant responsible for supervision of that L[l]icensed T[t]ax P[p]reparer 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 L[l]icensed T[t]ax P[p]reparer, unless the L[l]icensed T[t]ax C[c]onsultant demonstrates to the satisfaction of the Board that the circumstances that led to the violation occurred without the permission or knowledge of the L[l]icensed T[t]ax C[c]onsultant 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

800-025-0060

Consultant in Residence

(1) A L[l]icensed T[t]ax C[c]onsultant shall be in residence at each principal and branch office. "Tax consultant in residence" means that a L[l]icensed T[t]ax C[c]onsultant is physically present to conduct and carry out his/her duties in the principal or branch office for at least fifty (50) percent of the time an office is open to the public for tax preparation, assistance & advice during each week from January 15 to April 15 or during each month for the remainder of the year.

(2) The Board may waive the L[l]icensed T[t]ax C[c]onsultant 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. The Board shall grant a waiver only where at least one of the following circumstances exist:

- (a) Sickness or death of a L[l]icensed T[t]ax C[c]onsultant.
- (b) Unforeseen or unusual circumstances.

(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 L[l]icensed T[t]ax C[c]onsultant.
- (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 L[l]icensed T[t]ax P[p]reparers in the absence of a resident consultant.

(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 April 15 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 a Business Practices Committee consisting of three Board members appointed by the Board chair. Disapproval of an application by the Business Practices Committee may be appealed to the Board.

(6) The supervising **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant of an office for which a waiver has been approved shall meet in person with **L**[/l]icensed **T**[/t]ax **P**[/p]reparers in the office at least twice weekly to review the work of each **L**[/l]icensed **T**[/t]ax **P**[/p]reparer and respond to questions.

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

800-025-0070

Keeping of Records

(1) If a **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant is employed by another **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant, the records shall be kept by the employing **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant.

(2) If the **L**[/l]icensed **T**[/t]ax **C**[/c]onsultant 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.

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 T