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TAX BOARD BULLETIN

VOLUME 33, ISSUE 2

NOVEMBER 2009

Message From the Board Chair ~ Alan Twombly ~

This has been a very interesting and productive year for the Board. It has been just shy of a year since we added the open book process to our preparers' exam. This has helped with our increasingly complex tax rules and unbelievable amount of memorization that has been needed. I don't know how much more has been added since I passed the exam, but it was becoming unreasonable for an entry level preparer to be expected to learn a new language (Tax) and know all the answers needed to pass our complex exam. It is more reasonable to expect them to know where to find the information that is ever changing, than to know the answer 100% of the time.

Another change that I am still getting a lot of questions about is the change we made that became effective on February 5th of this year. I know it was the middle of tax season and so lots of people missed it. This is where we changed the rule OAR 800-010-0040(2) that no longer requires both the preparer's license number and the Designated Consultant's

number to be included on Oregon income tax returns. We now only need the state license number of the licensee preparing the return. So many of us have worked with software that does not give us enough room for both, and the Designated Consultant's name and number had to be hand written on each return. As the Tax Board's database becomes more advanced, the need for some of these things has become non-existent.

Another exciting item is a possible new pilot. When you think about filing tax returns, you would think Oregon Tax Practitioners would be at the head of the class. Included in this newsletter is an article from the Oregon Department of Revenue about an exciting new pilot we hope to be a part of. This pilot project was approved in House Bill 3082. Please read the article so there will be no surprises when it's time for your license renewal. Hope to see you all soon, maybe even at our next Tax Board meeting.

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/OTPB 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	TBA	Public Welcome
September 23 rd OUTREACH MEETING	Licensee Luncheon	TBA	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/OTPB/tax_board_public_meetings_notice.shtml
- Committee meeting dates, times and locations will be scheduled as needed.

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Message From the Executive Director

~ Ron Wagner ~

Take this short quiz. Which of the following statements are true?

1. All Oregon LTCs will be grandfathered into the new national licensing program.
2. The Board of Tax Practitioners will begin licensing all bookkeepers in 2010.
3. The Board of Tax Practitioners and the Board of Accountancy will be combined into one agency.
4. The Board of Tax Practitioners has one opening for a new Board member.
5. The Board of Tax Practitioners has voted in a new Board Chair and Vice Chair.

If you answered that only 5 is true then you are correct. Let's take a look at the statements one at a time.

- 1) All Oregon LTCs will be grandfathered into the new national licensing program. False. We don't even know yet if or when a national licensing program will go into effect. In a press release issued on June 4, 2009, IRS Commissioner Shulman announced that by the end of 2009, he will propose a comprehensive set of recommendations to better leverage the efforts of the tax return preparer community with the twin goals of increasing taxpayer compliance and ensuring uniform and high ethical standards of conduct for tax preparers.

I was invited to attend and give a presentation on Oregon's licensing program at the September 2, 2009, public forum. It was a great opportunity to brag about Oregon's licensing program, recognized around the nation as the most successful and comprehensive program for tax practitioners in the nation. (To view a

copy of my talking points click here: http://www.oregon.gov/OTPB/news/09-02-09_irs_public_forum_talking_points.pdf)

Commissioner Shulman, Deputy Commissioner Mark Ernst, and Director of the Office of Professional Responsibility, Karen Hawkins, facilitated the public forum and took great interest in Oregon's licensing program. It is possible that creating a national licensing program will be in the set of recommendations that will be made by Commissioner Shulman at the end of the year. If national licensing is recommended, there are many steps and decisions that must be made before a program can be put into place. Although I believe there is a good chance that Oregon LTCs will be grandfathered into a national licensing program, there are no guarantees. If being grandfathered into a national licensing program is important to you, you can do two things to increase your chances of being grandfathered in.

- 1) You can contact your Oregon senators and Oregon representatives asking them to vote in favor of a licensing program that includes the grandfathering of all Oregon LTCs.
- 2) You can become a Federally Enrolled Agent.

Although there are no guarantees, taking one of these two actions can only help your odds of being grandfathered into a national licensing program.

- 2) The Board of Tax Practitioners will begin licensing all bookkeepers in 2010.

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Executive Director ~ (Continued from page 3)

SB 865 was introduced by Senator Walker which would have required the Board to license all bookkeepers in Oregon. The bill did not pass out of committee and thus did not become law.

- 3) The Board of Tax Practitioners and the Board of Accountancy will be combined into one agency. Again this is false. You may have heard that Governor Kulongoski has talked about a reset of Oregon government. This means that the Governor wanted the legislators to take a look at how government is structured and determine whether we should continue to run government the way we currently do. He is asking the Oregon legislators to review all boards and commissions and determine the best and most efficient way to complete the work that boards currently do. They may ask "Should certain boards be consolidated, eliminated or put on hold?" Realistically speaking, when the legislators meet in February they will mostly be concerned with providing proper funding for education and balancing the state budget. They are not expected to get around to looking at boards and commissions this round. We will certainly keep you informed if boards and commissions get put on the special session calendars for discussion.
- 4) The Board of Tax Practitioners has one opening for a new board member. This is false. The Board is currently looking to fill two Board positions. Merry VanAtta completed her second full term at the end of June of this

year. She has graciously agreed to stay on the Board until her position can be filled. Marilyn Johnston will complete her second term at the end of January 2010. So we are currently in the process of filling two positions. Stay tuned.

- 5) The Board of Tax Practitioners has voted in a new Board Chair and Vice Chair. This is true! The Board of Directors unanimously voted Alan Twombly as Board Chair and Dorothy Hudson as Vice Chair at the May 2009 meeting. So if you have any comments for the Board, feel free to pass those on to our new Board Chair, Alan "Spitfire" Twombly.

One final note: I had the privilege of hiring Amit Mehta, a second year student in the masters program at Willamette University, as an intern for the Board. Amit's responsibility is to develop and implement a communication plan that will increase our ability to achieve our mission to protect consumers. In particular he will be working on ways we can increase public awareness of the Board and promote the agency's programs. Amit is currently putting together a questionnaire that will be used with focus groups to determine the current level of awareness and help us determine how best to increase public awareness. He will also be working with the four professional organizations in Oregon to tap into their ideas and experiences. But you don't have to wait to hear from Amit. Please give him a call here at the Board office with your ideas.

Have a great filing season!

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 or updates included within our newsletters, please contact the Board office at (503) 378-4034.

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Message From the Compliance Specialist/Investigator

~ *Monica J. Walker* ~

Currently, the compliance section of the Board office is concentrating on preparing for the 2010 tax season, while clearing the complaints from this last year. Although unlicensed activity still dominates the complaints received by the Board, I would like to take this opportunity to point out an area that has recognized *some* growth over the last year. This last year we received several complaints on Licensed Tax Preparers (LTPs) who are preparing tax returns on their own without a supervising consultant. We encourage all Licensed Tax Consultants (LTCs) to inform their LTPs that they cannot prepare, advise or assist in the preparation of personal income taxes on their own until they are licensed as an LTC.

I would also like to remind all LTCs/LTPs about the change in Oregon Administrative Rule (OAR) 800-010-0040(2), which now states: "*Where the licensee's signature appears on the state personal income tax return, there shall be included the State license number of the licensee preparing the return.*" The portion stating the LTC responsible for the preparation of the return was taken out with the permanent rule filing in February 2009.

Investigations are taking place throughout the state. Remember to contact the Board if you hear of any unlicensed activity, no matter where in the state it is occurring. The Board office staff will follow up on all leads provided. As stated many times before, your involvement in the investigative process is crucial to our success. This last year, the Board office received approximately 30% of complaints from licensees. The remaining 70% came from government agencies, taxpayers and various other sources.

How can the Board and its investigator do a better job in addressing unlicensed

activity throughout Oregon? Returns prepared by unlicensed individuals continue to be a problem in Oregon. The more timely the Board is made aware of a possible violation, the more success we have in resolving the situation. When the Board is contacted regarding a possible complaint, I begin research to determine if a violation of the laws and rules governing the preparation of personal income taxes has occurred. I receive several complaints per month. Many of these complaints are resolved in mediation and do not require a formal investigation. If I am unable to mediate a complaint, then I investigate to determine if there has been a violation. If a violation is determined, I then create a complaint file and collect evidence to determine the severity of the violation and the consumer harm as a result of the violation.

The possible fines for violations are determined using OAR 800-030-0025(1)(2). This includes the five (5) civil penalty factors: 1) harm to the consumer; 2) cooperation with the Board; 3) knowledge of the statute or rule; 4) previous record; and 5) the seriousness of the violation.

Upcoming News

Look for an update of friendly field visits made during the 2010 tax season in the July 31, 2010, issue of this newsletter. I will be providing a list of areas needing attention, as well as issues that may be causing confusion within the tax industry.

Some of the areas that will be reviewed during visits are:

- Whether practitioner licenses and

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Compliance ~ (Continued from page 5)

- business/branch registration(s) are posted in public view
- Is the correct Designated/Resident Consultant listed on the business/branch registration
 - If there are any expired/lapsed practitioner licenses and business/branch registrations that have not been removed from public view
 - Are licensees taking all necessary steps to reduce risks and ensure that confidential information is not inadvertently being disclosed

faxes from licensees notifying us of unlicensed individuals preparing taxes, as well as some advertising that is prohibited according to the Board's laws and rules. 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.

In closing, I'm looking forward to working with and meeting you this coming tax season. 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.

THANK YOU Licensees...

We really appreciate how licensees are getting involved in helping the Board keep the standards high for consultants and preparers in the State of Oregon. We receive many calls, e-mails, and

For an updated list of violations, please refer to the following URL:

http://www.oregon.gov/OTPB/Disciplinary_Actions.shtml

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My Years On the Board ~ Marilyn Johnston ~

After almost six years, I am retiring from the Board of Tax Practitioners when my current term ends on February 1, 2010. My time on the Board has been a wonderful learning experience, and I wouldn't have missed it for the world. Getting to know the Board staff as well as the Board members during these years has been rewarding. My first term was more of a learning time, with this last three years using that knowledge. As I mentioned in the last newsletter, I had the privilege of being the Board Chair for two years.

Even though it has not been totally smooth, kind of like a rollercoaster, up and down and round and round, it has all been rewarding, and I am very glad I was along for the ride. I want to encourage all licensees to give the Board your full support. Keep up with the work they do and volunteer to help when and where you can. I also want to encourage all licensees to attend Board meetings; you are all more than welcome. The meetings are published on

the Board's Web site.

The Board staff has all been very helpful, and do work very hard for all the licensees. I have seen many turnovers during this time and it's always a joy to get to know the new staff members and watch them grow as they learn their new jobs. I am leaving the Board in very good hands. We have a wonderful director and staff who are doing a great job. I want to thank all of them for a job well done.

It is time for me to step down and just be a licensee, but I plan to keep in touch with the Board members. I am looking forward to watching from a distance the current Board and know they are all very capable and knowledgeable individuals. I know because I have made them all my friends, and have learned from all of them. I would like to recommend to any of you who have the desire to serve the industry and the State of Oregon to apply to become a Board member.

The Board is Accepting Comments on Proposed Rules ~ Jane Billings ~

The Oregon Board of Tax Practitioners is currently working on the annual updates to the Oregon Administrative Rules Chapter 800. Recommendations made by the Rules Advisory Committee on September 9, 2009 were reviewed by the Board at the November 5, 2009 meeting. A public rule hearing will be scheduled for December 2009. The Board will be accepting public comments. You can comment on the proposed rule changes in person at the public hearing, or you can send in written comments prior to the public hearing date. The Board will post the rule hearing location, date, and complete proposed rule language on its Web site in the immediate future. www.oregon.gov/OTPB

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Being a Professional - Just What Does That Mean?

~ *Janis Salisbury* ~

This is a statement that often has left me puzzled. What does it mean when someone says “That person is definitely a professional”?

It can actually mean a number of different things based on the profession. For our occupation as tax practitioners, guidelines are often found in a code of professional conduct. If we are members of a “professional” organization, an organizational code is usually offered.

Being licensees under state law, we are given a “Code of Professional Conduct” to guide us in our workaday world. The following is a discussion of the issues that describe our professionalism as defined by OAR 800-010-0015 through 800-010-00500.

A licensee shall not disclose any confidential information obtained in the course of professional engagement except with the written consent of the client; or after being subpoenaed by a court or governmental agency of competent jurisdiction; or in response to an inquiry by the Board or its investigator; or as required by federal or state regulations for electronic filing.

Fees in connection with preparation of tax returns must be stated separately from, and in addition to, any other professional services provided. If a licensee also charges commissions for other personal services such as investments, the licensee shall disclose in writing requested compensation. In turn, the client will acknowledge receipt of the disclosure in writing. These concepts are closely related to the new client notification guidelines required of practitioners by the IRS.

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 services. This means that a licensee cannot charge the client a fee based on the amount of a refund or the amount the tax liability was reduced from last year’s tax liability.

In working with clients we have several responsibilities. If there is a question, we may resolve doubt in favor of a client, if there is reasonable support for the decision. A client shall be promptly advised when an error or omitted information is found for an income tax return. Taxpayers’ refund checks cannot be mailed or made payable to the licensee at any time, for any purpose.

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. This also includes copies of depreciation schedules. No other work papers need be given unless the practitioner decides to do so.

A licensee is not required to furnish records to a client more than once. This allows a practitioner to justify charging when additional or later copies are requested.

And finally, being a professional means that we shall not prepare tax returns or give advice that is outside the field of our experience and competence without the assistance of a person who is competent in that area of expertise. This gives us permission to be okay with not immediately knowing the answer; yet, it also gives the guidance to secure the information from others who do know. This professional guidance, if used, can take a big load off our shoulders.

What You Make of It ~ Dorothy Hudson ~

Oregon Administrative Rules 800-015-0010 require that each Licensed Tax Consultant or Licensed Tax Preparer renewing a license attest on the renewal form that they have completed the required 30 hours of continuing education during their renewal cycle. What the rules don't say is whether you have to learn anything or not!

We've all been there—"Oh no, I have to have my education completed next week in order to renew my license. What can I do fast?" or "What book can I take to read at the seminar?" While the Board approves course sponsors, and reviews correspondence courses for content, we do not review for quality. If it meets the subject matter requirement and the material is appropriate for the number of hours requested, the course will be approved by the Board.

What you do with the required education hours is totally up to you. Some suggestions for choosing your education are:

1. Don't wait until the last minute! Allow enough time to get the most benefit from the material.
2. Be certain to choose subject matter that you can benefit from. While it is easier to choose a subject that you know all about, that doesn't really accomplish the purpose of your continuing education.
3. Review course materials before pur-

chasing. Check to make sure that it will teach you the things you want to learn.

4. Ask others about new courses or sponsors you are unfamiliar with. Avoid those that might be "shallow" in their approach to the subject.
5. Take advantage of free or low cost education provided by government agencies. That will allow you to get more education each year while staying within your education budget.
6. For "live" seminars, be certain to let the sponsors know what you really thought about the seminar or the instructor. Did you learn anything and benefit from the time you spent there? Honest answers will help to improve the education they provide.

As we approach the next tax season let's take continuing education more seriously. The Board did not institute this rule to benefit class sponsors or to make your life harder. There is a reason for this requirement. Tax law is not easy and it keeps changing! You can't learn it all in a short amount of time (as some first-year preparers think!). It is a lifelong process. Good education will benefit you, making your tax season easier. Good education will benefit our profession as a whole. The quality of preparer returns will improve. Good education will benefit your clients, and that's what it's all about. It really is "what you make of it"!

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Reap the Benefits of the Board of Tax Practitioners' Web Site ~ Toni Ellsworth ~

Networking and advertising take time and money to be successful.

Most business owners know that they have to pay a fee to a search engine to get their name, address, phone number and Web site to pop up when someone is searching for a professional in their industry and location.

The Board of Tax Practitioner's Web site helps people search for a licensed tax professional in less time than it takes to pick up the phone book. The public database of licensees and the easy to use search function will help a potential client find you faster.

Please take a moment to experience the easy search function (shown at the right) provided to the public which uses the data that you submit on the annual license renewal application. Here is the link to try it out:

<http://www.oregon.gov/cgi-bin/tax.cgi>

The 2009 renewal application form for the Licensed Tax Preparer (LTP) included a new check box at the top of the form to authorize the Board to provide your e-mail address to tax schools and tax organizations. The same check box will appear on the 2010 Licensed Tax Consultant (LTC) renewal application.

The primary benefit is that tax training schools, continuing education providers, tax trade



The image shows a screenshot of the Oregon Board of Tax Practitioners Search form. At the top left is the Oregon state seal. The form title is "Oregon Board of Tax Practitioners Search". It contains several input fields: "License Type" (a dropdown menu with "Consultant" selected), "License Number", "Business Name", "Last Name", "First Name", "Middle Name", "City", and "State" (a dropdown menu with "OR" selected). To the right of the "Business Name", "Last Name", "First Name", "Middle Name", and "City" fields are checkboxes, each followed by the text "Sounds Like". At the bottom of the form are two buttons: "Submit" and "Reset".

associations and other licensees can contact you faster and without the cost (and carbon footprint) of mailing materials to you. However, the Board can not control how your public information is used when a person or company purchases the list. Please consider the many benefits and the additional contacts that may result from publishing your e-mail address online with the Oregon Board of Tax Practitioners.

Knowing What to Expect Reduces Audit Anxiety

*~ Tom Stinnette and Lois Williams ~
Oregon Department of Revenue*

Practitioners often ask how they can help make an audit go as smoothly as possible for their clients. Taxpayers who have never been audited may not know the steps involved or what the auditor will be requesting. One of the most important roles a practitioner plays is to let their clients know what to expect before, during, and after an audit. Nobody likes to be audited, but knowing what to expect in advance can help alleviate some of the anxiety caused by that first letter from the Department.

Here are specific business audit “best practices” that may be helpful to pass along to your clients:

- Whenever possible, auditors will tour the taxpayer’s business and become familiar with its recordkeeping system. The taxpayer should be present to answer general questions about their business operations and practices. Having the taxpayer available to share information will help us avoid unnecessary delays.
- While on site, auditors will check compliance with other tax programs. For example, an auditor will verify that payroll/withholding reports and local

transit tax returns are being filed, when appropriate.

- We want to expedite the audit process wherever possible. In some cases, we are calling taxpayers to set or confirm audit appointments.

At a recent practitioner liaison meeting, Cameron Campbell, senior tax auditor from the Eugene District Office, recently shared these and other ways that practitioners can prepare their clients for an audit. He emphasized that an audit is a two-way dialogue. Open and honest communication makes it easier for everyone to get through an audit, beginning with the initial contact. If you or your client have questions about the information or documentation an auditor needs, or when you’ll receive your audit results, ask the auditor directly to seek clarification. If you or your clients have scheduling conflicts, call the auditor to make arrangements or to figure out a date that works for everyone to provide documents and close the audit.

By being aware of and sharing these audit tips with your client, you can help facilitate a successful interaction between your client and the Department.

Licensee Tax Compliance Pilot Project 2009 — HB 3082 *~ Oregon Department of Revenue ~*

The Department of Revenue and the Board of Tax Practitioners have agreed to work together to implement HB 3082, enacted by the 2009 Legislature. This bill authorizes the Department to conduct a tax compliance pilot program with up to three licensing agencies, boards or commissions that issue occupational licenses. The pilot requires that licensees be in compliance with individual income tax laws as a condition of having their license renewed. Any state agency, board or commission that participates in the pilot project may suspend, revoke or refuse to renew a license if the Department determines that the licensee has failed to demonstrate or maintain tax compliance.

For purposes of this pilot project, a licensee is in compliance with individual income tax laws if they:

- Have filed their required individual income tax returns for the three (3) preceding years; and
- Have entered into, and are following the terms of, an acceptable payment plan with the Department for any outstanding balances.

The Department and the Board are currently determining the next steps and processes for carrying out HB 3082. Additional information will be provided to all licensees when the project gets underway.

IMPORTANT NOTICE

Board of Tax Practitioners - Board Administered Examination

Scheduled for: Saturday, December 12, 2009

Where: Winema Place - NW Center at Chemeketa Community College
4061 Winema Place N.E. - Building #50
Salem, Oregon 97305

Sign-In Time: 9:30 a.m. through 10:30 a.m.

Examination Instructions: 10:30 a.m. through 11:00 a.m.

Examination Begin Time: 11:00 a.m.

Please Note: All exams administered will be based on 2008 tax law.

Space available at the examination site is limited to 275 candidates. The first 275 individuals to make application and qualify for the examination will be granted a seat at the December 12, 2009, Board administered examination. Candidates wishing to take the Board examination at the above listed location are required to submit all application materials and fees to the Board office no later than **5:00 p.m., November 12, 2009.**

The Board of Tax Practitioners Board examination will begin promptly at 11:00 a.m. **“No show”** candidates will have forfeited their examination fee. Candidates who arrive for sign-in after 10:30 a.m. will be considered a **“no show”** and will not be allowed to sit for the examination.

At the time of sign-in, each candidate taking the examination on December 12, 2009, will be assigned to a table in which they will be taking the examination. Each candidate seated at the table will be administered a different examination.

Photo identification will be required at the time of sign-in. Only simple function calculators will be allowed; programmable, tape feed, and noise making calculators are prohibited. All items, *excluding source documents approved for the open book preparer exam*, brought to the examination must be placed in **clear/see through** containers. All items must be revealed to and approved by staff at the time of sign-in. Purses, cell phones, etc., will not be allowed in the examination hall. Make sure to leave all such items at home or in your vehicle. If you have these items at the time of sign-in, you will not be able to sign-in, you will be asked to go back to your vehicle to deposit the items, and you will need to go to the back of the sign-in line. No **SOLID** food items will be allowed during the examination. *(Please refer to the examination rules for additional information).*

Examination Durations:

Preparer & Consultant Examination = 5 hours

Consultant State Only Examination = 1.5 hours

Admittance into the examination site will be restricted to approved candidates, Board members, proctors and staff. Family and friends will **NOT** be allowed on the premises.

For questions regarding the Board administered examination please contact the Board office at (503) 378-4034. To obtain application materials, please refer to our Web site: www.oregon.gov/OTPB