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The Board's Web address has changed to align more with our name.

www.oregon.gov/OBTP

Oregon Board of Tax Practitioners

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TAX BOARD BULLETIN

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Message From the Board Chair

~ *Dorothy Hudson* ~

It is an exciting time to be serving on the Board. While national licensing is not a responsibility of the Tax Board, it will certainly have an impact on our Oregon licensing. This seems to be the first questions asked of Board members: "What changes will we see? Will we still have an Oregon license?" While I would not anticipate any changes soon, be assured that the Board is watching the national licensing program. We are waiting for the initial registration and testing to begin so that we can make any changes that might be necessary to our system.

The Board has had two meetings since our last newsletter. In July we discussed the possibility of changing to an online licensing program and to a biennial renewal. We also had a report from Jan Salisbury, Chairman of the Exam & Education Committee, on the impact national licensing will have on the Oregon testing and licensing system. We had a report from Ron Wagner on the Administration Committee, where he listed the items of discussion on public awareness, the mission statement,

the requirement to list our license number on all advertising, and to make the public more aware of the presence and purpose of the Tax Board. Minutes from both of these committee meetings are posted on the Web site. Review and give us your input.

The September Board meeting was the annual "outreach" meeting. This year it was held in Salem. The attendance was great! It was good to meet with licensees and hear their concerns and ideas. The Board provided an hour of education, and we had a great Mexican buffet. We discussed the funding of personnel and the Board budget. Ron Wagner is to make a presentation to the Emergency Board to request additional funding to cover our shortfall.

As always, I appreciate the opportunity to serve on the Board. It is an education in itself. Stay informed. All practitioners are welcome at the Board meetings. Agendas and minutes are posted on our Web site. Please be sure to give us your ideas, and to voice any concerns you may have. Hope to see you at a Board meeting soon!

Board of Tax Practitioners

3218 SE Pringle Road #120, Salem, Oregon 97302

2011/2012 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
2011			
January 6 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
May 10 th & 11 th 9:00 a.m.	Exam Work Sessions	Salem Morrow Crane Building	Exam Work Sessions Executive Session
May 12 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
July 12 th & 13 th 9:00 a.m.	Exam Work Sessions	Salem Morrow Crane Building	Exam Work Sessions Executive Session
July 14 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
August 9 th 9:00 a.m.	Instructor Workshop	TBA	Public Welcome
September 22 nd OUTREACH MEETING	Board Meeting	TBA	Public Welcome
September 22 nd OUTREACH MEETING	Licensee Luncheon	TBA	Licensee Luncheon
November 10 th 9:00 a.m.	Board Meeting	Salem Morrow Crane Building	Public Welcome
December 10 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 10, 2011
2012			
January 5 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.

The Work Behind the Scenes

~ Ron Wagner ~

I would venture to guess that most of your clients really don't have any idea about the amount of work that goes on behind the scene at your office. Do they realize how much effort you put into keeping up-to-date with new and ever increasingly complex tax laws through your continuing education? Do they realize the time you take to research their particular tax issues to ensure you are providing them with the best tax advice and adherence to tax laws? Do they understand the time and effort required by support staff to allow you as tax practitioners the ability to complete the tax return as quickly as you do? Do they realize their return is not the only one you are working on that week!? We all know there is a lot of effort required to allow you to provide the high level of service to your clients.

It is much the same here at the Board office. As a customer what do you see? You receive a printed renewal once a year. You send it back, your renewal is processed and you receive your new license and if applicable, a new business registration. You may hear about a particularly large case which the Board investigated and issued a final order which included some fines. You may attend a class or convention where a member from the Board staff gives an update about the Board and instructs on new administrative rules or procedures. And you receive this newsletter twice a year. But there is so much more that goes on behind the scene.

Here is a list of some of the behind the scene efforts at the Board this year:

- Over 4,200 LTC and LTP renewals are mailed. That means over 4,200 pieces of mail returned and opened. Multiple database entries are made for each of these 4,200 files. Each of the 4,200 new licenses are printed, folded and mailed.
- Nearly 1,200 lapsed letters were printed and mailed to licensees who did not renew their licenses by the due date.
- Nearly 1,500 business and branch registrations were processed.
- 2,313 exam questions (1,256 consultant exam questions; 1,057 preparer exam questions) are reviewed by groups of 20 volunteer licensees. All questions with changes are reviewed over two 2-day sessions by the Board of Directors.
- Over 800 exam applications will be received. An exam will be assigned to each of the 800 exam applicants with more than 500 individually mailed to proctor sites.
- Over 800 exams will be graded and the results entered into our database. Exam results will be printed and mailed to all 800 exam takers.
- Over 400 CE audits are randomly selected, mailed and administered. This represents approximately 10% of all licensees.

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Behind the Scenes ~ (Continued from page 3)

- 45 Oregon Administrative Rules were reviewed, and 21 were revised.
- 1 day for public hearing on Administrative Rule changes.
- 30 forms were revised.
- 1 publication revised.
- 25 reports filed with Oregon Department of Administrative Services Division.
- 15 presentations made to licensee at statewide and local chapters meetings.
- 5 all day Board meetings.
- 4 days for Board work sessions.
- 2 days for Board committee meetings.
- 1 Board outreach meeting.
- 1 instructor workshop planning for next year.
- Over 1,000 e-mails and telephone calls from licensees and applicants are responded to by Board staff.
- 1 new Compliance Pilot Project with the Department of Revenue.
- 1 bill submitted for the 2011 legislative session.
- 1 agency budget created and submitted to the Governor's office.
- Many complaints responded to and investigated.
- 1 agency Web site needing constant administration.

Many of the tasks listed above have been added as they years have gone by. But we continue to strive to provide you with our best service.

The Board will be looking for ways to allow our licensees to perform some of the work the staff is currently required to do. We continue to look at online registration as a feasible option. It would eliminate uncompleted fields on the renewal forms and illegible hand writing. It would eliminate the need for staff to enter the data from the form to the database. Would it be possible some day to allow you to print your own license after it has been approved, saving time mailing it to you? Allow renewal payments made by licensees to be confirmed before the renewal form can be transmitted? Maybe create an acknowledgement system similar to the IRS system for e-filed returns?

These would all be wonderful things, and I would like to tell you we can have them in place in the next two years. But that is probably unreasonable. For now I can reassure you that we will continue to work hard to provide you, our customers, with the excellent service you have long enjoyed, even with all the work that goes on **Behind the Scenes**.

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* ~

During my friendly field visits in the 2010 tax season, I found a few areas that I would like to share with you to ensure licensees are up-to-date on the current laws and rules governing the industry as well as provide information that will benefit you as licensees and business owners.

Status of Licenses/Registrations

I would encourage all business owners to take a proactive approach with their consultants and preparers, to ensure that everyone working in a tax preparation business renews their license timely. All licenses show the expiration date. Consultant licenses expire May 31st annually and preparer licenses expire September 30th annually. Even though the Oregon Administrative Rules allow a licensee to renew their license up to fifteen (15) days after the license expiration date without a reactivation fee, a licensee may not work during those fifteen (15) days preparing, advising, or assisting with personal income taxes. If a licensee is found preparing, advising or assisting in the preparation of personal income tax returns, the business owner, designated consultant, resident consultant and the unlicensed practitioner could be issued civil penalties by the Board. In addition, please keep in mind that if you have placed your license in an inactive status or you have allowed your license to lapse for more than three (3) years past the expiration date (LTC = May 31st / LTP = September 30th), you are ineligible for license renewal and are required to make application and successfully pass the examination(s) again.

Posting of Licenses/Registrations

Licensees and business owners should post their practitioner license and business/branch registrations in clear public view. This means that all licenses – consultant and preparer, as well as business/branch registrations – are available for consumers, clients and the general public to view when they step into a place of business; not on the licensee's desk or in their own personal office posted on the wall or filed in a drawer available if asked by consumers to see it. All licenses and business/branch registrations that are not renewed timely should be removed from public view as they are no longer valid. This also includes the removal of any business cards until the licensee's license is current or business/branch is registered. All licenses issued to a licensee should be signed prior to posting.

Posting of a Basic Fee Schedule

If a licensee or business owner *advertises* a discount, it is required that a basic fee schedule is posted in clear public view. The Board's definition of advertise/advertising includes any form of printed, broadcast or electronic material that makes known professional tax services. If the advertising falls under the Board's definition and a discount of any kind is offered, the basic fee schedule posted in clear public view must include the minimum fees charged for at least the following forms and schedules: 1040, 1040A, 1040EZ, Schedule A, Schedule B, Schedule EIC, Form 2441, Form 8812, Oregon 40 and Oregon 40S.

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Compliance ~ (Continued from page 5)

Handling of Confidential Information

All licensees are obligated to maintain confidential information given to them by their clients. Licensees should take all necessary steps to reduce the risks to the consumer and to ensure that confidential information is not inadvertently disclosed. This includes leaving client interview information, returns and tax preparation materials on your desk between business hours and appointments. Business owners are encouraged to review how confidential information is stored and disposed of at your place of business to avoid disclosure. If you haven't already, you should consider writing an office procedure concerning the storage and disposal of confidential information as well as make sure to train all staff on the procedure.

Who to Contact in the Event of a Security Breach/ Identity Theft

Although there are many precautions that individuals can take to protect themselves against a security breach and/or identity theft, if you should fall victim, contact the fraud department of any of the following credit bureaus to report a fraud alert:

- A) Equifax: (800) 525-6285
- B) Experian: (888) 397-3742
- C) TransUnion: (800) 680-7289

You do not need to contact more than one of the credit bureaus listed above as the bureau you notify will automatically contact the other two bureaus upon confirmation of your credit fraud. Once you have reported a fraud alert, creditors **must** contact you prior to making any changes to your existing accounts, charges for unusual purchases, purchases in excessive amounts and/or opening any new accounts.

DC/RC Requirements

Many licensees have requested clarification on the subject of Designated –vs– Resident Consultant (DC/RC) requirements. The following is a list of the differences between the two designations in hopes that it may provide clarity and answer any questions you may have.

Designated Consultant

- 1) An LTC may act as the DC for only one tax preparation **business* at a time. The Board may review and approve a written request for a waiver of this requirement. **There is no limit as to how many branches an LTC may act as the DC for at a time.*
- 2) The DC is responsible for **ALL** tax preparation activities of the business/branch.

Resident Consultant

- 1) An LTC may act as the RC for more than one tax preparation business/branch office without a written request for waiver and approval of the Board, provided they are physically present in the business/branch office for at least 50% of the time an office is **open to the public* for tax preparation, assistance and advice. (50% weekly from January 1st to the federal filing deadline and 50% a month for the remainder of the year for year round offices). If an LTC wishes to act as the RC for less than 50% of the time an office is **open to the public* – a written request for waiver and Board approval is required. **Hours in which the public has access to the business – NOT hours in which the business is occupied.*
- 2) The RC is accountable for being physically present for the required percentage of time (see #1 above) to conduct and carry out his/her duties, i.e., be available and respond to

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Compliance ~ (Continued from page 6)

questions from the public as well as any LTPs employed by the business/branch office.

General Information

For most businesses the DC/RC will be the same individual, especially if the business does not have more than one branch office.

If not exempted from the Board's jurisdiction under ORS 673.610, each business and branch office must be under the management and supervision of an LTC. This LTC does not necessarily have to be the DC or RC.

Any changes to a business/branch office's DC/RC must be reported in writing to the Board office within 15 business days of the change. Business owners are asked to submit a completed Business Registration (B-Reg) form marked as amended. No fee is assessed for changes made to the DC/RC.

Forms can be found at:

<http://www.oregon.gov/OBTP/forms.shtml>

Management & Supervision of LTPs

All LTPs employed by a tax preparation business or branch office must be supervised. Supervision includes but is not limited to:

- 1) For LTPs who have not had at least one (1) year of tax return preparation experience during the previous three (3) year period, must be under the immediate, onsite supervision of **more experienced personnel* when preparing, advising or assisting in the preparation of tax returns. **This does not mean an LTC must be present at all times. A second year preparer, for example, is considered to be *more experienced personnel*.*
- 2) For LTPs that meet or exceed at least

one (1) year of tax return preparation experience during the previous three (3) year period, must be under the control of an LTC in such a manner that the LTC:

- a. Is aware of all the activities of the LTP
- b. Has adequate opportunity to correct or add to the reasoning applied to a tax return by the LTP
- c. Is assured the LTP is providing competent workmanship

For full details on the management and supervision of LTPs please refer to Oregon Administrative Rule 800-025-0050.

As licensees, you already know, the Board is committed to respond to any complaints and/or reports of unlicensed activity received. Without your help, it is very difficult to successfully eliminate unlicensed tax preparation activity in Oregon. The sooner I'm made aware of potential violations, the sooner I can act to resolve them. Timing is important when dealing with unlicensed activity during tax season. Therefore, I encourage licensees to continue to contact me with concerns regarding both licensed and unlicensed activity as soon as you are made aware of a possible situation. Most reports of potential misconduct can be kept confidential.

In closing, I hope you all have a relaxing holiday season and I wish you a successful 2011 tax season. Don't hesitate to contact me if you have questions, concerns or need clarification on compliance information. Phone: (503) 378-4860, fax: (503)378-2757, or e-mail: monica.j.walker@state.or.us.

For a list of violations that are allowed to be disclosed per public records law, see http://www.oregon.gov/OBTP/docs/Forms/disciplinary_actions_current.pdf

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Continuing Education Audit Questions & Answers ~ Jane Billings ~

The consultant continuing education audit letters were mailed out on September 15, 2010, to 213 licensees. Consultants selected to participate were chosen at random and given until October 31, 2010, to respond to the audit. I am pleased to say that as of today the audit is almost complete and there have been fewer unacceptable courses submitted than in the previous year.

Per Oregon Revised Statute (ORS) 673.655(1) and Oregon Administrative Rule (OAR) 800-015-0010, tax practitioners are required to obtain a minimum of 30 clock hours of continuing education every year as a condition of renewal. Licensees are renewed pending possible audits based on self-attestation and meeting continuing education requirements. Misrepresentation of continuing education or failure to comply with an audit could constitute grounds for Board action.

There are a couple of things you need to consider when recording continuing education hours on your renewal form. First, your renewal is a legal affidavit. When recording your continuing education you are verifying compliance with the continuing education requirements outlined in OAR 800-015-0010. It is important to be complete in the information you provide. During the current renewal period, continuing education for consultants should be taken between May 1, 2009, and the date you signed and submitted your renewal. Continuing education for preparer licenses should be taken between September 1, 2009 and the date the renewal is signed and

submitted for renewal. Never submit your renewal form until you have completed your continuing education hours. If you submit your renewal notice without completing the continuing courses you have recorded you risk disciplinary action by the Board. Do not send continuing education certificates with your renewal. The only time continuing education certificates are required is when you are notified that you have been selected for the continuing education audit.

Here are common questions I have received regarding the continuing education audit:

1. Do I need to send in original continuing education certificates?

No, copies are appropriate and preferred. Licensees are required to maintain a record of attendance for at least two (2) years following each continuing education cycle and renewal of the tax practitioner license. I would suggest that you retain a copy of your renewal form with your continuing education certificates so you can refer back to it if you are audited. This will insure that you are submitting the correct certificates.

2. If I sent in my certificates with my renewal do I still need to comply with the audit?

Yes, continuing education certificates should not be sent in with your renewal. If you send them in during the renewal period they are destroyed—another reminder not to send original certificates.

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Continuing Ed Audit ~ (Continued from page 8)

3. If I have taken appropriate coursework through an accredited college or university how do I provide proof of those hours?

A copy of an official college transcript, diploma, certificate, statement or affidavit is required.

4. If I took courses through my company, can I submit a printout of the courses in lieu of the actual certificate?

No, for each course you recorded on your renewal form you must submit an actual certificate of completion. Certificates should include your name. They should also include the name, address and telephone number of the sponsor, along with the title of the program and the hours of continuing education. The certificate should also include the format of the course. Was it a seminar you attended? Was it a correspondence or self-study course? Was it a webinar or phone forum?

5. If I completed a correspondence continuing education course that is not listed on the Board's list of pre-approved correspondence/self-study courses will it be accepted?

No, currently all correspondence and self-study courses including online courses that are not live and interactive must be pre-approved by the Board. A list of courses provided in these formats is available on the Board's Web site and is updated frequently. Seminars that you attend do not require Board approval, however the subject matter must contribute directly to the expertise of income tax preparation. Programs primarily directed towards the licensee's personal benefit and programs related primarily to general business management are unacceptable.

6. What will happen if courses I have taken are denied?

You will be notified by the Board and given 30 days from the date of notification to make up the required hours.

7. What will happen if I am unable to comply with the Board's request to submit incomplete hours?

Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action by the Board.

8. What if I have a personal hardship, and I am unable to complete the required 30 hours of continuing education?

A licensee may make a request for a hardship waiver by completing the "Continuing Education Waiver Request Application". The Board will make the final determination to allow or deny the waiver request. Waivers are usually only allowed in extreme cases.

Ultimately the Board strives to make the continuing education audit process manageable for its licensees. The Board is attempting to work to incorporate the IRS continuing education guidelines and the Board's current requirements. As changes occur they will be made available on the Board's Web site. If you are unsure if a correspondence/self-study course is acceptable, refer to: http://www.oregon.gov/OBTP/approved_corresp_courses.shtml.

If you are still unclear and need additional questions answered, please feel free to call me at (503) 373-1691.

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Changes to Look For

~ *Janis Salisbury* ~

As a state Board representing a viable industry, over the last few months we have been trying to nail down how the statutes and rules for the Oregon Board of Tax Practitioners can dovetail with the National Licensing Law. It is like trying to nail down a bouncing ball. The program in Oregon is highly respected as is proven by the quality of work produced. I don't think anyone would want to lose that credibility.

The Board certainly does not plan to be in conflict with the national process. The Board is in the process of drafting Oregon Revised Statutes and Oregon Administrative Rule changes. One of the changes we are anticipating is that every applicant for a license must possess an individual tax identification number (PTIN) issued by IRS at the time of application. In the future this will also follow the applicant passing the IRS administered federal exam before application. This decision is based on IRS directives that anyone preparing even a significant portion of the return will be required to secure a PTIN. This will not replace the Oregon license number.

The CPE hours that are accepted by the Board will include any CPE hours that are accepted by the federal licensing program as long as the hours meet Oregon requirements. If federal requires 15 CPE hours, those 15 hours are part of the 30 CPE hours required by the Oregon Board.

In evaluating the costs of entering into the profession, we have determined that one way the Board can ease the financial burden and not affect our budget is to reduce the initial license fee. Look for a change in the future. At this time the Board is keeping the 80-hour basic tax course as an initial requirement which includes the state exams as they now are administered. That doesn't mean that in the future the process will not be reevaluated.

One final issue that the Board has been watching closely and trying to improve is the pass rate for the LTC exam. These are individuals that are expected to work on their own and to know a good deal of tax law. Times are different than they were 30 some years ago when the initial rules were put into place. Tax law is much more complicated and it takes longer to develop a good understanding. Thus, a change is being made to increase the number of hours of experience before one can sit for the LTC exam from 780 to 1100 hours in at least two of the last five years.

All of the above issues could go into effect at different times. Shortly there will be a notice for all of us to participate in a comment period on the proposed Rule changes. Some of the other changes require Legislative action. Watch for details on legislative issues after the first of the year. This is your organization, governing your profession, be sure to participate.

Engagement Letters

Why, When & How

~ *Dea Williams, EA, LTC* ~

Why use engagement letters?

IRS Section 6694 Tax Preparer Penalties and Due Diligence comes to mind.

We as professional tax practitioners are held to the highest ethical and professional standards. How we conduct our practices is a reflection of the integrity and professionalism of our industry in the communities that we serve. When we, as consumers, contract for goods and services in our communities, we expect to be treated with professionalism and integrity. We expect the purchase of services to be a valuable exchange for the dollars spent. The engagement letter sets the stage for the professional relationship that will exist between the practitioner and the client. It defines the scope of work and the objectives to be achieved under the engagement.

The effect of an engagement letter should provide for 1) prevention of possible misunderstanding between the practitioner and the client by listing the terms and conditions of the engagement; 2) clarity to any staff assigned to the project; i.e., the exact services that are to be rendered and the timeline for beginning and ending the engagement; and 3) definition and description of the responsibilities of the practitioner and staff and those of the client in the engagement.

The engagement is considered a contract for the performance of services by the practitioner for consideration from the client for the services. Its use decreases the potential for disputes and disagreements that might arise. It will not “bullet proof” the practitioner from litigation, but is the

initial line of defense in the event any litigation should occur.

When should engagement letters be used?

Always!

An engagement letter is recommended for use for all tax-related engagements. You may use one engagement letter to address several types of services to be provided, or you may provide a separate engagement letter for each type of service to be rendered on behalf of the client. I like the latter. Remember, **when you sign any return you are attesting that the position that was taken on the return has a realistic possibility of being sustained on its merits in the event of an audit.** I would recommend one engagement letter for individuals and a separate one for any related entities, i.e., corporations, partnerships, and LLCs.

How should engagement letters be used (drafted)?

It is a legal document. Know the laws and rules for the drafting of the document, both on the Federal side and on Oregon's side. Know and be aware of any statute or clause in Circular 230, Treasury Regulations, Treasury Decisions, the Internal Revenue Code, and current and past case law mandates, directly or remotely related to the issuance of an engagement letter.

Even though there are organizations that have profile engagement letters, you should use caution in using them. More than likely, they are acceptable, but they should be thoroughly reviewed and modified to conform to your firm's policies and

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Engagement Letters ~ (Continued from page 11)

procedures, and the consumer protection laws in place for Oregon. No individual form or document addresses all situations.

The following are some items that should be considered for inclusion in the drafting of an engagement letter:

Ethical Requirements

All practitioners, i.e., CPAs, EAs, LTCs and attorneys have to address the ethical rules of their particular profession.

Jurisdictional Guidelines and Mandates

Know the rules of the states in which you are conducting business. Also, be aware that some states may have laws that require that an engagement letter is issued for engagements of a specific threshold.

Federal Tax Law Requirements

The mandates of Circular 230 under federal tax law should be included in the drafting of an engagement letter. Circular 230, Section 10.2(a) (5), governs and specifically defines a practitioner. Circular 230 is being revised as a result of national tax licensing. Know the laws.

It is important in drafting an engagement letter that the Oregon laws surrounding the use of written engagements and consumer protection be part of the content of the letter. For example, OAR 800-010-0035 (Contingent Fees) and OAR 800-010-0050 (Advertising and Solicitation) must be considered in the drafting of the letter. There should be a notice to the client that the engagement is not based upon any promise of any specific outcome in order to avoid liability under OAR 800-010-0035. The designated tax consultant should review the draft of the letter to ensure that the advertising and solicitation rules under OAR 800-010-0035 are being addressed.

The language in an engagement letter should be clearly understandable and in simple terms. Tax engagements can be very high anxiety times for our clients, especially if it is an engagement to deal with IRS or Oregon audit issues. Stay out of the land of “tax or code speak.” Practice due diligence in the drafting and the use of engagement letters. The practitioner should understand the element and importance of each provision of the engagement letter and be able to present it to a client in an articulate and professional manner.

An engagement letter should include the following elements:

- The purpose of the engagement. Include the specific tax years and/or periods at issue
- The specific responsibilities of the client during the engagement
- Any known or adverse conditions, situations or circumstances that should be noted
- Should detail exactly the services the practitioner is prepared and willing to perform and specifically what he/she will not perform on behalf of the client
- The practitioner should communicate with the client the importance of being able to rely on facts and information to be provided by the client concerning the engagement project
- The detail of the fees and billing rates and scheduled payments
- Verification of the client’s contact and billing address
- The engagement should be signed in duplicate and a copy provided to the client

Prior to the acceptance of an engagement, an initial interview with the client should be

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Engagement Letters ~ (Continued from page 12)

conducted to determine that there are no legal, ethical or jurisdictional issues that would effect the engagement. For example: Are there any other professional relationships that need to be considered or evaluated before entering into the engagement? Are the client's expectations concerning the resolution and timing of the engagement reasonable and/or attainable? Have all confidentiality, privilege and disclosure issues been discussed with the client? Have termination of engagement events been discussed with the client, and is there a good understanding of what the causes of termination are?

Here's a final thought for you to consider. There is a significant difference between a formal engagement and making an informal documentation note of a client's understanding of a tax issue discussion. For example, there are times when it is prudent to document a client's understanding that you will not accept a particular engagement or even agree to prepare a particular tax return on their behalf. These documentations should still have some form of client

acknowledgement. The client should be required to sign or initial the informal documentation. It may be prudent when you have had a discussion with a client about non acceptance of an engagement or preparation of a tax return, to follow-up the discussion with a formal memo addressed to the client outlining your non acceptance of the engagement.

Remember how I started out this discussion: **Why use engagement letters?** IRS Section 6694 Tax Preparer Penalties and Due Diligence come to mind.

The use of an engagement letter may not keep you out of a lawsuit, but it is your initial line of defense against adverse claims from a client, taxpayer, or unrelated third parties. I believe that the use of well drafted engagement letters, whether you are a small firm or a large firm, goes a long way in building solid professional-client relationships. A well drafted engagement letter helps to promote the ethical and competent representation of your clients.

They Came, They Saw, They Conquered ~ *Jane Billings* ~

The Rules Advisory Committee met on October 14, 2010, for the annual review of the Board's Administrative Rules. The Committee consisted entirely of volunteer licensees. The following individuals were on this year's Committee: Neil Gibson, Karen Gilbert, Candace Morris, Merry Van Atta, Joanne Vetter, Anita Maller, James Moskal, Henrietta Browning, Heather Search, Melissa Hansen, Bonny Link, and Rochelle Lessner. What a hard working group of individuals. A special thanks to each one of you for all your efforts.

For future proposed rule changes stay tuned to the Board's Web site.
http://www.oregon.gov/OBTP/oregon_administrative_rulemaking.shtml

The Fine Print

~ *Kay M. Lee, LTC, EA* ~
Kembery Tax Service

I am going to start with the fine print as it is very important and it matters when it comes to how you fill out the tax return.

Right below the client's signature at the bottom of the tax return is the following statement:

“Under penalty of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has knowledge.”

This means several things. The first is that you, as the preparer, are saying that you are not lying or leaving anything out **under penalty of perjury**. This means you can face fines and penalties if you lie or deliberately leave information out. The client and the preparer should know this, but I wouldn't assume so.

It means that this is a legal document. It is used in many different ways, such as buying a house, or qualifying for student aid, food stamps, or other benefits from the government and others. The reason it is accepted so readily is that it is a legal document. This is also why the IRS will send your client a letter if the IRS

or state tax authority makes any changes to it.

It also means that if you don't have all the documents yet that are needed, you need to state very clearly that you are sorry, but complete means complete, and the client must wait until all pertinent documents can be obtained. Clients eager to get refunds will, on occasion, try to get you to file right away and amend later. In addition, if you double-check a prior year's return to see if everything that is there is also accounted for on this year's return, many times very important issues come up such as “we bought the house because we had a new baby.” Or “yeah, I forgot about that. I did take money out of my retirement account.”

If at all possible, go over the return with the client. If not, ask them to tell you if there are discrepancies that they notice. **The taxpayer is the person ultimately responsible** for this return and should **NOT** sign it until they have read it. For practicality sake, many pick up their return, sign the permission to e-file and read it later. They need to be encouraged to let you know when it is ready to send to ensure they do look at it and see if it is ready to be sent to the IRS and/or the state before it is e-filed or mailed.

Knowing these simple facts and letting clients know taxes are based on law helps to keep everyone more accountable.

TAX BOARD BULLETIN



Licensee Luncheon ~ ODOT Human Resources Center ~ Salem, Oregon

