

BOARD OF TAX PRACTITIONERS

DIVISION 1 – PROCEDURAL RULES

800-001-0020 - Hearing Request & Answers: Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Board by a party or his/her attorney and an answer shall include *[the following:*

(a) An admission or denial of each factual matter alleged in the notice;

(b) A] a short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause:

[(a) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(b)] (a) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

[(c)] (b) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the board; and

[(d)] (c) Evidence shall not be taken on any issue not raised in the notice and answer.

BOARD OF TAX PRACTITIONERS

DIVISION 10 - CODE OF PROFESSIONAL CONDUCT

800-010-0020 - Confidential Information

(1) A licensee shall not disclose any confidential information obtained in the course of professional engagement except:

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

(a) With the written consent of the client;

(b) After being subpoenaed by a court or governmental agency of competent jurisdiction;

(c) In response to an inquiry by the Board or its investigator~~[.]~~;

(d) As required by federal or state regulations for electronic filing.

(2) Members of the Board and its employees shall not disclose any confidential client information which comes to their attention except as required to carry out their official responsibilities.

800-010-0030 - Accountability

(1) A Licensed Tax Consultant or registered tax preparation business shall only allow persons to practice in the consultant's or tax preparation business name who are licensed as tax consultants, tax preparers, or as described in ORS 673.610.

(2) A Licensed Tax Consultant 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 Licensed Tax Consultant does not provide supervision of the tax preparation activities as defined in OAR 800-025-0050.

(3) A Licensed Tax Consultant or a Licensed Tax Preparer shall not state or imply that a Licensed Tax Preparer preparing tax returns to which the consultant's license number or tax preparation business information is affixed is not:

(a) Fully subject to the supervision of the Licensed Tax Consultant or registered tax preparation business; as defined in OAR 800-025-0050; or

(b) Acting as agent of the Licensed Tax Consultant or registered tax preparation business.

(4) A Licensed Tax Preparer shall not engage in the preparation of tax returns, assist in such preparation, gather tax information, or provide tax advice **for valuable consideration** unless the Licensed Tax Preparer is under the supervision of a Licensed Tax Consultant 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 consultants or tax preparers 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 calendar 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.

BOARD OF TAX PRACTITIONERS

DIVISION 15 - EDUCATION

800-015-0010 - Continuing Education

- (1) Except for renewal of an initial license, a Licensed Tax Consultant or Licensed Tax Preparer renewing a license shall attest on the renewal to have completed at least 30 hours of acceptable continuing education since the last renewal date.
- (2) Each licensee shall report compliance with the continuing education requirements on the license renewal document. Licensees shall be subject to the provisions of OAR 800-015-0015 pertaining to the periodic audit of continuing education.
- (3) Proof of participation in required continuing education is the responsibility of the licensee. To ensure that proof of attainment of required continuing education is available for audit or investigation by the Board, licensees shall maintain *[a record of attendance]* **certificates** for at least four (4) years following each continuing education cycle and renewal of the tax practitioner license.
- (4) Continuing education credit will be accepted only for courses and seminars that comply with all Board rules regarding continuing education.
- (5) The Board may verify continuing education information submitted by licensees.
- (6) 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 not claimed on that renewal may be submitted with the following year's renewal.

(7) 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 or instructor.

(8) Continuing education credit for courses at accredited universities and colleges will be 15 hours for each semester hour credit and ten (10) hours for each quarter hour credit. For all other courses and seminars, one (1) hour of continuing education credit will be allowed for each hour of classroom attendance.

(9) Continuing education credit may be accepted for instructors of basic or advanced courses or seminars. The credit allowed will be two (2) hours for each hour of teaching, which includes preparation time. No more than 1/2 of total required continuing education credit can be in teaching.

(10) Correspondence and online 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, if not already approved by California Tax Education Council (CTEC), Internal Revenue Service (IRS), National Association of State Boards of Accountancy (NASBA), or courses by such other sponsors as may be approved by the Board.

(11) "In-Company" instruction may be accepted if the course or seminar is presented to ten (10) 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.

(12) 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 calendar days, to make up the rejected hours.

(13) Licensed Tax Consultants and Licensed Tax 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.

BOARD OF TAX PRACTITIONERS

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. The application must include the examination fee and the proctor site fee, if applicable. The application must be signed.

(2) The application and examination fee shall be filed with the Board no later than one (1) month prior to the examination date, except when the Board sets tighter deadlines due to extenuating circumstances.

(3) Completed basic course certification forms as required under OAR 800-015-0005(6) or a photocopy of an official transcript issued by an accredited college or university shall be submitted to the Board by the student with the initial 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 and/or taught, together with a transcript or proof of instruction from the educational institution if the course(s) they completed and/or taught have not received prior approval from the Board.

If the Board determines the course(s) completed **and/or taught** *[is/]*are comparable to those described in OAR 800-015-0005, the applicant shall be eligible to take the examination.

4) A tax consultant applicant who is a Licensed Tax Preparer 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 a Licensed Tax Preparer for not less than a cumulative total of 1100 hours during at least two (2) of the last five (5) years.

(5) An Enrolled Agent applicant who is enrolled to practice before the Internal Revenue Service, holding a valid treasury card, shall submit verification by the applicant's employer or employers, on forms prescribed and furnished by the Board, that the applicant has completed a minimum of 360 hours work experience during at least two (2) of the last five (5) 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 a Licensed Tax Preparer for not less than a cumulative total of 1100 hours during at least two (2) of the last five (5) 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 or 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 212 hours credited. To qualify for the one (1) to five (5) hour experience credit, total hours worked in the volunteer program must be verified in writing by a supervisor knowledgeable in tax preparation.

(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 *[1100hours]* **1100 hours** of work experience earned during at least two (2) of the last five (5) years.

[(7)] **8** A tax practitioner 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 practitioner for no less than two (2) of the last five (5) years; and

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

[(8)] **9** A tax preparer or tax consultant applicant who has worked in the capacity as a tax practitioner 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 (2) years prior to the date of application;

(b) The applicant has at least three (3) years experience in a tax preparation business;

(c) 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 365 hours of work experience at the rate of one (1) classroom hour of education for five (5) hours of experience if:

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

(b) The applicant completed the course within one (1) year of applying to become a Licensed Tax Consultant; 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.

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]* **attesting to** required continuing education and **payment of** the appropriate fees.

(5) Licensed Tax Preparers have the option to file for inactive status on or before October 15, provided the license is not in lapsed status as provided in OAR 800-020-0035(2).

(6) Licensed Tax Consultants have the option to file for inactive status on or before June 15, provided the license is not in lapsed status as provided in OAR 800-020-0035(2).

(7) If a tax preparer or tax consultant 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.

(8) Licenses that have been placed in inactive or lapsed status may be reactivated upon receipt of a completed reactivation application form prescribed by the Board, *[proof of]* **attesting to** required continuing education and **paying** the appropriate fee(s).

800-020-0035 - Inactive and Lapsed Status

(1) Except as provided in section (3) of this rule, a license that has been placed in inactive status may be reactivated upon submission of a reactivation application, payment of license fee for an active license and **attesting to** *[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 been placed in lapsed status may be reactivated to active status upon submission of a reactivation application, payment of all past unpaid fees and **attesting to** *[proof of]* compliance with all past continuing education requirements the same as if the licensee had held an active license. A license that has been placed in lapsed status shall not be placed in inactive status.

(3) A license that has been placed in inactive or lapsed status, or a combination thereof, for three (3) consecutive years, shall not be reactivated to active status.

(4) The Board may refuse to reactivate a license that has been placed in inactive or lapsed status for the same reasons it may refuse to issue, renew, suspend, or revoke a license.

BOARD OF TAX PRACTITIONERS

DIVISION 30 – CIVIL PENALTY MATRIX

Statute/Rule Violated	Civil Penalty Range Per Violation	
	Minimum	Maximum
ORS 673.615 ORS 673.655 ORS 673.663 ORS 673.700(7) ORS 673.705 OAR 800-010-0020(1) OAR 800-010-0020(2) OAR 800-010-0025(1) OAR 800-010-0025(7) OAR 800-010-0035 OAR 800-025-0020(1)	\$100	\$5,000
ORS 673.700(3) OAR 800-010-0025(3) OAR 800-010-0025(6) OAR 800-010-0030 OAR 800-010-0045 OAR 800-025-0040	\$50	\$3,000
OAR 800-010-0042 OAR 800-010-0050 OAR 800-010-0040 OAR 800-020-0031 <i>[OAR 800-025-0020(1)]</i> OAR 800-025-0025(4)	\$50	\$2,000
ORS 673.700(8) ORS 673.690 OAR 800-010-0025(4) OAR 800-010-0025(5) OAR 800-010-0041 OAR 800-020-0065 OAR 800-025-0010 OAR 800-025-0020(2) OAR 800-025-0020(3) OAR 800-025-0023 OAR 800-025-0030 OAR 800-025-0060	\$50	\$1,000

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