

***OREGON ADMINISTRATIVE RULES***

***CHAPTER 800***

***STATE BOARD OF TAX PRACTITIONERS***



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**Updated 10/1/2019**

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## **DIVISION 1**

## **PROCEDURAL RULES**

### **800-001-0000**

#### **Notice of Proposed Rule**

Prior to the adoption, amendment, or repeal of any rule, except temporary rules adopted under ORS 183.335(5), the State Board of Tax Practitioners shall give notice of the proposed adoption, amendment, or repeal:

- (1) In the Secretary of State's Bulletin.
- (2) By mailing a copy of the notice to persons who have requested such notice.
- (3) By mailing a copy of the notice to the following organizations or publications:
  - (a) Associated Press;
  - (b) Oregon Association of Tax Consultants;
  - (c) Oregon Society of Tax Consultants; and
  - (d) Oregon Association of Independent Accountants;
  - (e) Oregon Society of Enrolled Agents.

**Statutory/Other Authority:** ORS 183.341(4)

**Statutes/Other Implemented:** ORS 183.341(4)

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, TSE 1-1995, f. & cert. ef. 5-5-95, TSE 1-1993, f. & cert. ef. 2-23-93, TSE 2-1987, f. & ef. 10-2-87, TSE 4-1981, f. & ef. 8-13-81, TSE 5, f. & ef. 12-4-75

### **800-001-0005**

#### **Contested Cases**

The Board of Tax Practitioners adopts the current version of the Attorney General's Model Rules of Procedure under the Administrative Procedure Act. The Board may close a contested case hearing to members of the public to keep confidential personal financial information gathered by the Board pursuant to an investigation.

**Statutory/Other Authority:** ORS 183.341(1)(2)

**Statutes/Other Implemented:** ORS 183.341(1)(2)

**History:** BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05, BTSE 1-2001, f. & cert. ef. 4-19-01, TSE 15-1991, f. & cert. ef. 12-20-91, TSE 2-1988, f. & cert. ef. 8-26-88, TSE 1-1986, f. & ef. 7-14-86, TSE 1-1985, f. & ef. 1-15-85, TSE 1-1982, f. & ef. 3-22-82, TSE 1-1980, f. & ef. 4-17-80, TSE 2-1978, f. & ef. 3-27-78, TSE 7, f. & ef. 4-20-76, Renumbered from 852-010-0005, TSE 1, f. 2-19-74, ef. 4-20-74, OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15, OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15, OPT 1-2013, f. & cert. ef. 1-3-13, OP 1-1991, f. & cert. ef. 4-12-91, OP 1-1987, f. & ef. 4-30-87, OE 2, f. 12-5-57

### **800-001-0010**

#### **Assistance in Hearing**

- (1) The Board Administrator or Compliance Specialist is authorized to appear (but not make legal argument) on behalf of the agency in a hearing or in a class of contested case hearings in which the Attorney General or the Deputy Attorney General has given written consent for such representation. A copy of the list of contested case hearings for which the Attorney General or the Deputy Attorney General has given consent is maintained by the agency and the Department of Justice.

(2) Legal argument as used in ORS 183.450(8) and this rule has the same meaning as in Model Rule OAR 137-003-0008(1)(d).

(3) When an agency employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

**Statutory/Other Authority:** ORS 183.452 & 673.730(10)  
**Statutes/Other Implemented:** ORS 183, 673.452 & 673.605–673.990  
**History:** BTP 1-2003, f. & cert. ef. 9-23-03, TSE 7-1990, f. & cert. ef. 9-4-90

### **800-001-0015**

#### **Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases**

In addition to the notice requirements under the Attorney General's Model Rules of Procedure, the Notice to Parties in Contested Cases may include the statement that an answer to the assertions or charges will be required, and if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of OAR 800-001-0005 through 800-001-0020 with the notice.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)  
**Statutes/Other Implemented:** ORS 183 & 673.605–673.990  
**History:** BTSE 1-2001, f. & cert. ef. 4-19-01

### **800-001-0020**

#### **Hearing Request and 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 a short and plain statement of each relevant affirmative defense the party may have.

(2) Except for good cause:

- (a) Failure to raise a particular defense in the answer will be considered a waiver of such defense;
- (b) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the board; and
- (c) Evidence shall not be taken on any issue not raised in the notice and answer.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)  
**Statutes/Other Implemented:** ORS 183 & 673.605–673.990  
**History:** BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13, BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTSE 1-2001, f. & cert. ef. 4-19-01

## 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) "Branch Office" means an office or other place of business where clients would normally or usually contact a licensee.
- (3) "Client" means a person for whom a licensee performs or agrees to perform professional services for valuable consideration and the services are related directly or indirectly to the client's personal income taxes.
- (4) "Confidential Information" means information furnished to a licensee for, or in connection with, the preparation of an income tax return.
- (5) "Designated Consultant" means a Licensed Tax Consultant who is the responsible individual at each tax preparation business and whose responsibilities include the supervision of the preparation of all personal income tax returns for another and for valuable consideration.
- (6) "Licensee" means a Licensed Tax Consultant, Licensed Tax Preparer, or any person, corporation, firm or partnership falling within the scope of ORS 673.605 to 673.735.
- (7) "Resident Consultant" means the Licensed Tax Consultant who is physically present to conduct and carryout his/her duties in the principal or branch office.
- (8) "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, whether or not the licensee also prepares the client's personal income tax returns.
- (9) "Tax Preparation Business" means a sole proprietorship, partnership, corporation or other entity that offers personal income tax preparation services to the public, for valuable consideration, 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.
- (10) "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 income tax returns for others, or offering to perform such services. Valuable consideration need not be translatable into dollars and cents.

**Statutory/Other Authority:** ORS 670.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.605 –673.990

**History:** BTP 1-2017, f. & cert. ef. 1-27-17, BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12, BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11, BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05, TSE 4-1991, f. & cert. ef. 10-28-91, TSE 1-1990, f. & cert. ef. 1-25-90, TSE 3-1987, f. & ef. 10-2-87, TSE 6-1986, f. & ef. 12-31-86, TSE 1-1985, f. & ef. 1-15-85, TSE 2-1982, f. & ef. 5-10-82, TSE 6, f. & ef. 1-5-76

## **800-010-0017**

### **Incompetence and Negligence**

Under ORS 673.700(3):

(1) A licensee is incompetent when he/she has engaged in conduct where a lack of ability, fitness, or knowledge to perform his/her professional functions is evident.

(2) A licensee is negligent when he/she has engaged in conduct detrimental to the client.

**Statutory/Other Authority:** ORS 670.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.700(3)

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, BTP 1-2003, f. & cert. ef. 9-23-03, TSE 1-1991, f. & cert. ef. 1-3-91, TSE 9-1990(Temp), f. & cert. ef. 10-30-90, TSE 8-1990, f. & cert. ef. 9-4-90

## **800-010-0020**

### **Confidential Information**

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

(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; or

(d) As required by federal or state regulations.

(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.

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14, BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13, BTP 1-2009, f. & cert. ef. 2-5-09, BTSE 1-2001, f. & cert. ef. 4-19-01, TSE 1-1985, f. & ef. 1-15-85, TSE 6, f. & ef. 1-5-76

## **800-010-0025**

### **Integrity and Objectivity**

(1) A licensee shall not knowingly misrepresent facts while preparing, assisting, or advising in the preparation of income tax returns. A licensee may resolve doubt in favor of a client if there is reasonable support for the position.

(2) A licensee who finds that a client has made an error or omitted information or related material required on an income tax return shall promptly advise the client of such error or omission.

(3) A licensee shall not arrange for or permit a client's individual income tax refund check to be mailed or made payable to the licensee at any time, for any purpose.

(4) Commissions earned for additional personal services by the licensee, such as real estate, insurance, investment, and securities sales, may be earned if the licensee also holds any license, permit, or registration

required by law to perform the services. A licensee shall disclose in writing that he/she will be compensated for other personal services. The client will acknowledge receipt of the disclosure in writing.

(5) Fees in connection with preparation of tax returns must be stated separately from, and in addition to, any other professional services provided.

(6) 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;

(a) A licensee who has provided a tax return to a client shall, upon written request by the client, make available within a reasonable time to the client, copies of depreciation schedules that support the return;

(b) A licensee is not required to furnish records to a client more than once under this subsection.

(7) A licensee shall not engage in fraudulent, deceptive, or dishonest conduct relating to the licensee's professional practice.

(8) A licensee shall not violate any position of trust, including positions of trust outside the licensee's professional practice.

(9) A licensee must be current on all tax return filings and all tax payment plans pertaining to the licensee and/or licensee's business before a license can be issued or renewed.

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14, BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTP 1-2009, f. & cert. ef. 2-5-09, BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05, BTP 1-2003, f. & cert. ef. 9-23-03, BTSE 1-2001, f. & cert. ef. 4-19-01, TSE 1-1992, f. 3-24-92, cert. ef. 6-1-92, TSE 3-1989, f. & cert. ef. 12-20-89, TSE 4-1986, f. & ef. 8-15-86, TSE 1-1985, f. & ef. 1-15-85, TSE 3-1980, f. & ef. 8-22-80, TSE 6, f. & ef. 1-5-76

## **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 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:

(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.

(8) In addition to the original returns filed on behalf of a client, at least one (1) copy of the complete set of the tax returns, including all accompanying forms, schedules (specifically depreciation schedules) and statements shall be supplied to the client. A licensee is not required to provide a free copy of the tax returns to a client more than once. However, in the case of a joint tax return, each spouse is entitled, upon request, to a free copy of the tax return.

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13, BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11 BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTP 1-2009, f. & cert. ef. 2-5-09, BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, BTSE 1-2001, f. & cert. ef. 4-19-01, TSE 8-1987, f. & ef. 12-21-87, TSE 1-1985, f. & ef. 1-15-85, TSE 1-1979, f. 6-14-79, ef. 6-15-79, TSE 6, f. & ef. 1-5-76

## **800-010-0035 Contingent Fees**

A licensee shall not render or offer to render income tax preparation services under an arrangement whereby no fee will be charged unless a specific finding or result is attained, or where the fee is otherwise contingent upon the findings or results of such services.

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** BTP 1-2017, f. & cert. ef. 1-27-17, TSE 6, f. & ef. 1-5-76

## **800-010-0040 Identification**

(1) A licensee shall include the name of the tax preparation business through which the personal income tax returns were prepared, the tax preparation business's permanent address, and the signature of the licensee who substantially prepared the return(s) (licensee's name) on all federal and state personal income tax returns or electronic filing documents prepared by the licensee. This should be in addition to all other data required by the Internal Revenue Service, Department of Revenue, and State Board of Tax Practitioners. Office copies are exempt from this requirement.

(2) The state personal income tax return shall include the signature of the licensee who substantially prepared the return(s) and the Board issued license number of the licensee who substantially prepared the return(s).

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** BTP 1-2017, f. & cert. ef. 1-27-17, BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14 BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12, BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11, BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTP 1-2009, f. & cert. ef. 2-5-09, BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, BTSE 1-2001, f. & cert. ef. 4-19-01 TSE 2-1995, f. & cert. ef. 5-5-95, TSE 1-1985, f. & ef. 1-15-85, TSE 2-1982, f. & ef. 5-10-82, TSE 1-1978, f. & ef. 2-3-78, TSE 12, f. & ef. 9-20-77, TSE 6, f. & ef. 1-5-76

## **800-010-0041**

### **Address and Telephone**

Licensees must file with the Board their current mailing address, residence address, e-mail address and telephone number(s). In addition, licensees and non-licensed business owners must file with the Board their current tax preparation business address, telephone number and a year-round address and telephone number where clients and the Board may contact the licensee. Whenever any of the information required in this section changes, the licensee must notify the Board in writing within 15 business days.

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14, BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11, BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTP 1-2009, f. & cert. ef. 2-5-09, BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08, BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, TSE 1-1985, f. & ef. 1-15-85

## **800-010-0042**

### **Communications**

A licensee must, when requested, respond in writing to communications from the Board within 15 business days of the mailing of such communications to the address furnished to the Board by licensee.

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** BTP 1-2009, f. & cert. ef. 2-5-09, TSE 3-1995, f. & cert. ef. 5-5-95, TSE 1-1985, f. & ef. 1-15-85, TSE 2-1982, f. & ef. 5-10-82

## **800-010-0045**

### **Experience and Competence**

A licensee must not prepare tax returns or give advice that is outside the field of the licensee's experience and competence without the assistance of a person who is competent in the area of concern.

**Statutory/Other Authority:** ORS 673.310(1), 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** TSE 1-1985, f. & ef. 1-15-85, TSE 6, f. & ef. 1-5-76

## **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 income tax services. This includes, but is not limited to, business cards and stationery, and all web and e-commerce advertising of an individual or tax preparation business. Promotional items and other items of *de minimis* value are exempt from this requirement.

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

(3) All advertising must include either the name of a firm that has complied with ORS 673.643 or the name of the firm's Designated Licensed Tax Consultant.

(a) Only a person holding a valid Tax Consultant's License may use the designation "L.T.C.", "LTC" or the titles "Licensed Tax Consultant" or "Tax Consultant."

(b) Only a person holding a valid Tax Preparer's License may use the designation "L.T.P.", "LTP" or the title "Licensed Tax Preparer".

(4) All advertising must be reviewed and approved in advance by the designated Licensed Tax Consultant. The designated Licensed Tax Consultant and the registered tax preparation business shall each be responsible for the business's compliance with the provisions of this rule.

(5) No licensee shall advertise to give a discount unless:

(a) The discount is based upon a basic fee schedule posted in public view in the licensee's place of business; and

(b) The fees on the posted basic fee schedule are the usual and customary charges of the tax preparation business; and

(c) The basic fee schedule must include the minimum fees charged for at least the following forms and schedules: 1040, Sch. A, Sch. B, Sch. EIC, Form 2441, Sch. 8812, Oregon 40, 40N, 40P, and OR Schedule A.

(6) All business advertising must include the Board issued business registration number of the firm written as: "Board of Tax Practitioners#" and/or "OBTP#" or the license number of the firm's Designated Licensed Tax Consultant written as: "Licensed Tax Consultant#" and/or "LTC#".

(7) All individual advertising must include the licensee's Board-issued LTC or LTP license number written as: "Licensed Tax Consultant#" and/or "LTC#" or "Licensed Tax Preparer#" and/or "LTP#". For example, John Doe, Licensed Tax Consultant 12345-C or Jane Doe, LTP 56789-P.

**Statutory/Other Authority:** 673.730(7) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.730(7) & 673.605 - 673.990

**History:** BTP 1-2017, f. & cert. ef. 1-27-17, BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15, BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14, BTP 3-2011, f. 6-3-11, cert. ef. 7-1-12, BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11, BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10, BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07, BTSE 1-2001, f. & cert. ef. 4-19-01, TSE 2-1992, f. & cert. ef. 5-15-92, TSE 2-1990, f. & cert. ef. 1-25-90, TSE 3-1986, f. & ef. 7-14-86, TSE 1-1985, f. & ef. 1-15-85, TSE 3-1982, f. & ef. 11-19-82, TSE 4-1981, f. & ef. 8-13-81, TSE 3-1981, f. 7-22-81, ef. 7-23-81, TSE 2-1981(Temp), f. 2-18-81, ef. 2-19-81, TSE 6, f. & ef. 1-5-76

## **DIVISION 15**

## **EDUCATION**

### **800-015-0005**

#### **Basic Education**

- (1) Only an accredited college/university, educational service district (ESD), private career school, or a private firm that has met or is exempt from the licensure requirements of the Oregon Higher Education Coordinating Commission (HECC), or a private firm offering classes to only its own employees that is exempt from the HECC 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 income tax preparation instruction. Training in or use of proprietary software shall not be included in the 80 hours. If the course is offered through correspondence or online, 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 shall require a sponsor applicant to 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 could be 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 by 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 calendar 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.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.625

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; 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; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12

## **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 attest on the renewal to, and shall provide sufficient detail (list) of, having completed, within the 30 hour continuing education requirement, a minimum of two (2) hours of acceptable continuing education in professional conduct and ethics since the last renewal date. The two hours of acceptable continuing education in professional conduct and ethics may be satisfied through any professional conduct and ethics program that meets the general continuing education requirements described in section (3) of this rule.

(3) Continuing education programs in professional conduct and ethics required by subsection (2) of this rule are eligible for continuing education credit if the program is offered by a sponsor approved by the Board and includes information pertaining to at least one or more of the following topics:

(a) Review of Oregon Revised Statutes and Oregon Administrative Rules pertaining to the preparation of individual income tax returns;

(b) Review of examples of issues or situations that require an understanding of Federal or State statutes, rules, and case law relevant to all licensees;

(c) Review of guidelines adopted by the Internal Revenue Office of Professional Responsibility and policies outlined in the Internal Revenue Treasury Department Circular 230;

(d) Review of the code of professional conduct adopted by the Board and set forth in OAR chapter 800, division 010;

(e) Review of recent case law pertaining to ethics and professional responsibilities for the licensed tax consultant and tax preparer profession.

(4) Each licensee must 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.

(5) Proof of 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 certificates for at least four (4) years following each continuing education cycle and renewal for the tax practitioner license.

(a) For purposes of audit, Internal Revenue Service (IRS) PTIN continuing education transcripts will be acceptable in lieu of the individual sponsor's certificate. The IRS transcripts should include the name of course, the name of the sponsor, the date of completion, and the number of continuing education hours.

- (6) Continuing education credit will be accepted only for courses and seminars that comply with all Board rules regarding continuing education.
- (7) The Board may verify continuing education information submitted by licensees.
- (8) Education hours earned in excess of 30 hours annually cannot be carried over from one renewal period to the next. However, hours earned during the month of renewal not claimed on the current renewal may be submitted with the following year's renewal.
- (9) 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.
- (10) 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 live courses including interactive webinars, webcasts, IRS phone forums, and seminars, one (1) 50-minute education hour of continuing education credit will be granted for each hour of classroom attendance.
- (11) Continuing education credits are 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 half of the total required continuing education credit can be in teaching.
- (12) Correspondence and online study courses are 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) Course outlines, workbooks, and exams must be submitted to the Board for approval of course content and credit hours claimed prior to offering the material to the public unless already approved by the California Tax Education Council (CTEC), or the Internal Revenue Service (IRS), or the National Association of State Boards of Accountancy (NASBA).
- (13) "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.
- (14) 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.
- (15) 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.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.645 & .673.655

**History:** BTP 1-2017, f. & cert. ef. 1-27-17; 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 9-1987, 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; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f.

& cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13; BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15

## **800-015-0015**

### **Continuing Education: Audit, Required Documentation and Sanctions**

(1) The Board will audit a select percentage of licensee records determined by the Board to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education shall submit to the Board, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 800-015-0010.

(3) Documentation of a certificate of completion of attendance at a program, seminar, or course provided by a sponsor must include:

(a) Name and location of student;

(b) Name of sponsoring institution/association or organization;

(c) Title of program;

(d) Name of instructor or presenter;

(e) Date(s) of attendance;

(f) Number of instruction hours;

(4) For documentation of completion of a college/university course, a licensee must submit a photocopy/electronic copy of an official transcript, diploma, certificate, statement, or affidavit.

(5) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time shall constitute grounds for disciplinary action.

(6) Misrepresentation of continuing education, or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include but is not limited to assessment of a civil penalty and suspension or revocation of the license.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.645, 673.655 & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08

## **800-015-0020**

### **Continuing Education Program Requirements**

(1) Acceptable continuing education is that which contributes directly to the expertise of the individual in the preparation of income tax returns, and is presented by a sponsor who meets the requirements of all Rules. It is the obligation of each licensee to select a course of study which will contribute to his/her competence in the preparation of income tax returns.

(2) The following general subject matters are acceptable to the extent they contribute directly to the expertise of advising, assisting, or preparing income tax returns:

(a) Taxation;

(b) Practitioner Ethics;

(c) Accounting and payroll theory;

(d) Estate, tax, or investment planning;

(e) Computer technology;

(f) Tax representation: exam, collections, or appeals;

(g) Others, if the licensee can demonstrate a direct relationship to the preparation of a client's income tax returns.

(3) Programs primarily directed towards the licensee's personal benefit, rather than that of his/her clients, and programs relating primarily to general business management, are unacceptable. Some examples of unacceptable subjects are:

(a) Memory improvement;

(b) Buying or selling a tax practice;

(c) Setting fee schedules;

(d) Character development;

(e) Behavior modification;

(f) Business management;

(g) Labor law;

(h) Economic forecasts;

(i) Learning to operate office equipment.

(4) Programs must be at least one (1) 50-minute education hour with credit given in whole hours only.

(5) Programs must be conducted by a qualified instructor whose background, training, education, or experience make it appropriate for the person to lead a discussion on the subject matter of the particular program.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.645, 673.655 & 673.605 –673.990

**History:** BTP 1-2017, f. & cert. ef. 1-27-17; 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 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 2-1989, f. & cert. ef. 10-27-89; TSE 8-1992, f. & cert. ef. 12-22-92; TSE 2-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15

## **800-015-0030**

### **Continuing Education and Basic Sponsor Requirements**

(1) Sponsors shall:

(a) Maintain for at least four (4) years an outline of each program presented;

(b) Maintain for at least four (4) years a record of attendance for each program presented;

(c) Maintain for at least four (4) years a record of instructor names, addresses and qualification; and

(d) Provide the student a certificate or other verification of completion at the conclusion of the program. If the sponsor is an accredited college or university, a photocopy of an official transcript or certificate of completion showing the credit earned will be acceptable verification. For all other sponsors, the certification shall include:

(A) Name of student;

(B) Name of sponsoring institution/association or organization;

(C) Title and category of program;

(D) Name of instructor or presenter;

(E) Date(s) of attendance or completion;

(F) Number of instruction hours.

(2) Sponsors must conduct their programs in an honest and ethical manner.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.645, 673.655 & 673.605 –673.990

**History:** BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; 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 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1995, f. & cert. ef. 5-5-95; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

## **DIVISION 20**

## **PROCEDURES**

### **800-020-0015**

#### **Application for Examination**

(1) (a) An application to take any tax preparer or tax consultant examination offered by the Board must be filed with the Board electronically or on forms prescribed and furnished by the Board.

(b) Each Board Examination Application must be personally signed or electronically authorized by the applicant.

(c) Each Board Examination Application must be accompanied by the appropriate Board Examination Application fee specified in OAR 800-020-0025(1) or (2).

(d) In addition to the Board Examination Application fee paid directly to the Board, each applicant must also pay the Board Examination Application Proctoring fee, in the amount specified in OAR 800-020-0025(22) or (23), directly to the examination proctor.

(e) The Board Examination Application Proctoring Fee, paid directly to the examination proctor, may not exceed the Board Examination Application Proctoring Fee specified in OAR 800-020-0025(22) and (23).

(2) The Board Examination Application and the Board Examination Application Fee 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 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, employers or other evidence 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 applicant for the state portion of the tax consultant examination who is an Enrolled Agent and is enrolled to practice before the Internal Revenue Service, holding a valid Treasury card, may, upon successfully completing the state portion of the tax consultant exam, apply for licensure as a Licensed Tax Consultant.

(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, employers or other evidence that the applicant has worked in the capacity as a Licensed Tax Preparer for not less than a cumulative total of 1100 hours gained during the course of at least two (2) of the last five (5) calendar years.

(A) 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.

(B) 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 220 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.

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

(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 work verification application signed under penalty of perjury, claiming employment as a tax practitioner for at least two (2) of the last five (5) years; or

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

(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 tax preparation within two (2) years prior to the date of application;
- (b) The applicant has at least three (3) years' experience in tax preparation within the last 5 years;
- (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.

(10) The Board may accept education credit for courses completed by a tax consultant applicant to substitute for a maximum of 375 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.

(11) Information required of the applicant and on the application forms shall be completed before an applicant may be admitted to an examination.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.625–673.640

**History:** [BTP 1-2018, amend filed 05/22/2018, effective 06/01/2018](#); BTP 1-2017, f. & cert. ef. 1-27-17; BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 3-2011, f. 6-3-11, cert. ef. 7-1-12; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2005, f. & cert. ef. 1-5-05; BTP 1-2003, f. & cert. ef. 9-23-03; BTSE 1-2001, f. & cert. ef. 4-19-01; TSE 9-1992, f. & cert. ef. 12-22-92; TSE 5-1990, f. & cert. ef. 5-3-90; TSE 4-1988, f. & cert. ef. 11-2-88; TSE 3-1985, f. & ef. 12-5-85; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1982, f. & ef. 11-19-82; TSE 2-1982, f. & ef. 5-10-82; TSE 2-1980, f. & ef. 5-30-80; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 8, f. & ef. 5-19-76

## **800-020-0020**

### **Examinations**

(1) Licensing examinations shall be scheduled as the Board deems appropriate but no less than once per year as required by ORS 670.350.

(2) Tax preparer and tax consultant applicant's examination shall be submitted on Board-approved forms. Questions shall be constructed to measure the applicant's knowledge of Oregon and federal personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the Code of Professional Conduct. The tax consultant examination shall require a higher standard of knowledge.

- (a) Upon approval of exam eligibility, the Board will email the applicant an approval notice. It is the applicant's responsibility to contact the exam proctor to pay for and schedule the examination.
- (3) A tax preparer applicant must have at least a 75 percent grade or score on the entire examination to pass.
- (4) A tax consultant applicant must have at least a 75 percent grade or score on the entire examination to pass.
- (5) An enrolled agent who is enrolled to practice before the Internal Revenue Service, holding a valid Treasury card, must have at least a 75 percent grade or score on the Consultant's State-Only portion of the examination to pass.
- (6) Pass or fail results, including scores, of the examination shall be provided to each examination candidate, electronically or in writing. Results will not be given by any other means.
- (7) No review of examination questions by the applicant will be granted.
- (8) An applicant who fails to pass the examination shall be eligible for a succeeding examination upon making application and payment of the examination fee and proctor fee.
- (a) Eligibility is good for 60 days from date of approval by the Board. Applicants may retest an unlimited number of times during the 60-day period. Applicants who do not pass within 60 days must reapply with the Board.
- (9) A tax preparer applicant must re-take the Basic Course if, after two (2) years from Basic Course completion date, the applicant has not yet passed the preparer examination.
- (10) An applicant who passes an examination must apply for licensing within 60 days from the examination date. If application for license is not made within 60 calendar days, the applicant must retake the examination, unless there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

[Publications: Publications referenced are available from the agency.]

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.625–673.640

**History:** [BTP 1-2018, amend filed 05/22/2018, effective 06/01/2018](#); BTP 1-2017, f. & cert. ef. 1-27-17; TSE 8, f. & ef. 5-19-76; TSE 10(Temp), f. & ef. 11-29-76 thru 3-28-77; TSE 11, f. & ef. 4-6-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1980, f. & ef. 5-30-80; TSE 1-1981 (Temp), f. 1-2-81, ef. 1-5-81; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1984(Temp), f. & ef. 12-20-84; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1985(Temp), f. & ef. 6-11-85; TSE 2-1986, f. & ef. 7-14-86; TSE 4-1987, f. & ef. 10-2-87; TSE 1-1989, f. & cert. ef. 6-8-89; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 2-2004, f. 8-12-04 cert. ef. 8-31-04; BTP 2-2005, f. 7-28-05, cert. ef. 8-1-05; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 2-2011, f. 2-7-11, cert. ef. 7-1-11

## **800-020-0022**

### **Examination Conduct; Disqualification**

(1) Examination Conduct: Examinations shall be conducted in a designated area with restricted access. Approval notification of an applicant's eligibility to take the examination must be issued by the Board office prior to scheduling an appointment for examination. Authorization must be provided by the Board office before bringing any materials, electronic equipment, or devices into the examination area. Applicants shall be required to provide valid US state or federal government issued photographic identification before being allowed to take the examination.

(2) Examination Disqualification: A candidate may be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

(a) Taking or attempting to take any unauthorized items, notes, materials, or devices into the examination area;

(b) Giving or attempting to give assistance to others in answering questions during the examination;

(c) Receiving or attempting to receive assistance during the examination, including assistance from other individuals, notes, books, or devices to answer questions;

(d) Removing or attempting to remove any secure examination-related information, notes, or materials from the examination site;

(e) Failing to follow directions relative to the conduct of the examination;

(f) Exhibiting behavior which impedes the normal progress of the examination; and

(g) Endangering the health or safety of a person involved in the examination.

(3) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. Any candidate who has been disqualified during an exam will need to request in writing approval from the Board to retake the exam. The candidate will be required to reapply by submitting a new exam application, additional examination fees, and a letter requesting approval to retake the exam including an explanation of their actions which resulted in disqualification from the exam. Final approval by the Board is required.

**Statutory/Other Authority:** ORS 673.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.625 –673.640

**History:** BTP 1-2017, f. & cert. ef. 1-27-17; BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05

## **800-020-0025**

### **Fees**

The fees for application to take any Board examination, for licenses and registrations issued, renewed, reactivated or otherwise, shall be prescribed by the State Board of Tax Practitioners by rule but shall not exceed the following:

(1) The fee for application for examination for a tax preparer's license is \$60.

(2) The fee for application for examination for a tax consultant's license is \$60.

- (3) The fee for issuance of a tax preparer's initial license is \$60.
- (4) The fee for a combination tax preparer's initial license/tax preparation business registration is \$110.
- (5) The fee for renewal of a tax preparer's active license is \$80.
- (6) The fee for issuance or renewal of a tax consultant's active license is \$95.
- (7) The fee for an initial consultant license, if an applicant holds an active preparer's license is \$65.
- (8) The fee for a combination tax consultant's initial license/tax preparation business registration, if an applicant holds an active preparer's license is \$125.
- (9) The fee to place a tax preparer's license in inactive status is \$35.
- (10) The fee to place a tax consultant's license in inactive status is \$50.
- (11) The fee for reactivation of a tax preparer license in inactive status is \$80.
- (12) The fee for reactivation of a tax consultant license in inactive status is \$95.
- (13) The fee to reactivate a tax preparer or tax consultant license in lapsed status is \$35, plus payment of all unpaid renewal fees.
- (14) The fee for a duplicate practitioner's license is \$10.
- (15) The fee for a duplicate business/branch registration is \$10.
- (16) The fee for a replacement tax consultant's certificate is \$15.
- (17) The fee for issuance or renewal of a tax preparation business registration is \$110.
- (18) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$155:
  - (a) For Consultants — if postmarked on or before June 15th.
  - (b) For Preparers — if postmarked on or before October 15th.
- (19) The fee for issuance or renewal of a branch office registration is \$20.

(20) The nonrefundable processing fee retained for all refunds issued is \$10.

(21) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The Board may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for Non-Sufficient Fund (NSF) or uncollected funds the Board will attempt to collect payment by other means.

(22) The proctoring fee for taking an examination for a tax preparer's license is \$50.

(23) The proctoring fee for taking an examination for a tax consultant's license is \$85

**Statutory/Other Authority:** ORS 673.310; 673.730(10); 673.685

**Statutes/Other Implemented:** ORS 673.685 & 673.605 – 673.990

**History:** [BTP 1-2018, amend filed 05/22/2018, effective 06/01/2018](#); BTP 1-2016, f. 3-30-16, cert. ef. 4-1-16; TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 2-2011, f. 2-7-11, cert. ef. 7-1-11; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 2-2013(Temp), f. 7-22-13, cert. ef. 8-5-13 thru 2-1-14; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

## **800-020-0026**

### **Refunds of Examination Fees**

(1) A \$10 nonrefundable processing fee shall be retained from all examination application fees. The remainder of an examination application fee shall be refunded only when the applicant is not qualified or when there are verifiable circumstances beyond the reasonable control of the applicant.

(2) Except as provided in section (3) of this rule, an applicant who has been approved to sit for the examination but who fails to take the exam is a “no-show” or takes but does not pass the examination shall not be entitled to a refund of the examination fee.

(3) If application for examination is made in anticipation of successfully completing the required basic course and the applicant fails to complete the required course a refund of the examination fee will be issued only if:

(a) The applicant establishes that failure to successfully complete the course was beyond the reasonable control of the applicant and

(b) The applicant notifies the Board prior to the scheduled examination date.

(4) A \$10 nonrefundable processing fee shall be retained from all license, renewal and registration application fees. The remainder of the application fee remitted shall be refunded only when the licensee is not qualified or when there are verifiable circumstances beyond the reasonable control of the licensee.

**Statutory/Other Authority:** ORS 673.310; 673.730(10); 673.685

**Statutes/Other Implemented:** ORS 673.685 & 673.605 – 673.990

**History:** BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2003, f. & cert. ef. 9-23-03; BTSE 1-2001, f. & cert. ef. 4-19-01; TSE 6-1991, f. & cert. ef. 10-28-91; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1985, f. & ef. 1-15-85; TSE 1-

1983, f. & ef. 3-10-83; TSE 2-1982, f. & ef. 5-10-82  
TSE 1-1979, f. 6-14-79, ef. 6-15-79

## **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. Tax Preparers are prohibited from practicing until official renewal has been processed.
- (3) Tax consultants' licenses shall expire annually on May 31. Tax Consultants are prohibited from practicing until official renewal has been processed.
- (4) Renewal licenses shall be issued upon receipt and validation of the completed renewal application notice, 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 and validation of a completed reactivation application form prescribed by the Board, providing required continuing education documentation and paying the appropriate fee(s).

**Statutory/Other Authority:** ORS 670.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.645 - 673.667

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; TSE 2-1993, f. & cert. ef. 2-23-93; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 8, f. & ef. 5-19-76

## **800-020-0031**

### **Certificates**

- (1) A Licensed Tax Consultant'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 Licensed Tax Consultant's license has been placed in inactive or lapsed status, 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.

**Statutory/Other Authority:** ORS 670.310(1), 673.660 & 673.730(10)

**Statutes/Other Implemented:** ORS 673.660 & 673.605 - 673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; TSE 2-1993, f. & cert. ef. 2-23-93; TSE 1-1985, f. & ef. 1-15-85; TSE 13, f. & ef. 9-20-77

## **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 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 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.

**Statutory/Other Authority:** ORS 670.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.660

**History:** BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTSE 1-2001, f. & cert. ef. 4-19-01; TSE 2-1993, f. & cert. ef. 2-23-93; TSE 6-1992, f. 8-13-92, cert. ef. 8-1-93; TSE 2-1991, f. & cert. ef. 1-30-91; TSE 3-1985, f. & ef. 12-5-85 TSE 8, f. & ef. 5-19-76

## **800-020-0065**

### **Displaying of Licenses**

Licensed Tax Consultants and Licensed Tax Preparers must display their licenses in public view in their place(s) of business.

**Statutory/Other Authority:** ORS 670.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 673.660

**History:** BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1982, f. & ef. 5-10-82; TSE 8, f. & ef. 5-19-76

## **DIVISION 25      TAX PREPARATION BUSINESSES**

### **800-025-0010**

#### **Firm Names**

- (1) The name under which a tax preparation business offers and/or performs services must be in compliance with the laws and rules of the Oregon Corporation Division.
- (2) The designation Licensed Tax Preparer or reference to the title Licensed Tax Preparer in any manner, including initials or acronyms, shall not be included as part of a firm name.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTSE 1-2001, f. & cert. ef. 4-19-01; TSE 4-1992, f. & cert. ef. 5-15-92; TSE 1-1985, f. & ef. 1-15-85

### **800-025-0020**

#### **Tax Preparation Business Registration**

- (1) A tax preparation business shall not offer services to the public until the business has:
  - (a) Complied with applicable laws and rules of the Oregon Corporation Division;
  - (b) Registered with the Board, on a Board-approved application form, the tax preparation business name, address, telephone number, and e-mail address; the name(s) of the owner(s) of the business; and the name of the individual(s) responsible under OAR 800-025-0040 for the tax activities of the business; and
  - (c) Paid the tax preparation business registration fee required under OAR 800-025-0025.
- (2) Within 15 business days of a change of name or ownership, a tax preparation business must file a new business registration with the Board and pay a new business registration fee.
- (3) A person who offers tax preparation services under more than one tax preparation business name must register each such name as a separate business.
- (4) All tax preparation businesses shall comply with State Fire Marshall Address Identification requirements.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; TSE 4-1992, f. & cert. ef. 5-15-92; TSE 14-1991, f. 11-25-91, cert. ef. 1-1-92; TSE 13-1991(Temp), f. & cert. ef. 11-25-91; TSE 1-1985, f. & ef. 1-15-85

### **800-025-0023**

#### **Reporting Closing of Business; Address and Phone Changes**

A tax preparation business shall notify the Board within 15 business days of:

- (1) Termination of the tax preparation business; or
- (2) A change in the mailing address, physical address, e-mail address, or telephone number(s) of the tax preparation business.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; TSE 7-1991, f. & cert. ef. 10-28-91

## **800-025-0025**

### **Renewal of Tax Preparation Business Registration**

(1) Tax preparation business registrations expire annually on June 15, except that combination tax preparation business registration/tax preparer licenses shall expire annually on October 15.

(2) At least 30 calendar days prior to the registration expiration date each year, the Board shall attempt to notify each tax preparation business, using the contact information they provided to the Board, that their tax preparation business registration is up for renewal.

(3) Renewal registrations will be issued to a qualifying tax preparation business upon receipt and validation of a completed registration renewal application and the fee for registering a tax preparation business specified in OAR 800-020-0025(14) or the fee for a combined tax consultants or tax preparers license and tax preparation business registration specified in OAR 800-020-0025(15).

(4) A tax preparation business whose registration has expired shall not perform tax preparation services for valuable consideration, or offer such services, until the tax business submits a new tax preparation business registration application and the application process has been completed.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; TSE 8-1991, 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 (1) of the owners of the tax preparation business is a Licensed Tax Consultant or Licensed Tax Preparer. As used in this section, "owner" means an individual who owns at least ten (10) percent of the tax preparation business.

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

(a) A new registration, at the time of application for the owner's tax consultant's or tax preparer's license;

(b) A renewal registration, before the expiration date of the current registration.

(3) A licensee who owns more than one (1) tax preparation business is eligible for only one combined license and business registration under OAR 800-020-0025(17). A licensee must pay the full business registration fee for each additional tax preparation business under 800-020-0025(17).

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; TSE 9-1991, f. & cert. ef. 10-28-91

## **800-025-0029**

### **Displaying Business Registration**

Tax preparation businesses must post their current registration in public view in their place of business.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; TSE 4-1992, f. & cert. ef. 5-15-92

## **800-025-0030**

### **Branch Offices**

(1) A tax preparation business may not operate any branch office until:

(a) The tax preparation business has complied with all laws and rules of the Board concerning tax business registration;

(b) The mailing address, physical address, e-mail, phone number(s) of the branch office, and the name and license number of the resident consultant for the branch office have been submitted to the Board; and

(c) The tax preparation business has paid an annual fee for the branch office registration for that location as required under OAR 800-020-0025(19).

(2) Branch office registrations expire annually on the expiration date of the associated tax business registration.

(3) At least 30 calendar days before the expiration of a branch office registration, the Board will attempt to notify each tax preparation business, using the contact information the tax preparation business has provided to the Board that their tax preparation branch office registration is up for renewal.

(4) Renewal branch office registrations will be issued to qualifying tax preparation businesses upon receipt of the required annual registration fee.

(5) A tax preparation business operating branch offices must notify the Board within 15 business days of:

(a) Change of mailing address, physical address, e-mail address, or phone number(s) of the branch office.

(b) Change in Resident Consultant and/or Designated Consultant of the branch office.

(c) Closing the branch office.

(6) Branch offices must be conducted under the same name as the principal office. This name and current registration must be posted in public view in each branch office.

(7) The name of the Designated Consultant and the name of the Resident Consultant must be posted in public view in each branch office.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; TSE 2-1996, f. & cert. ef. 12-30-96; TSE 5-1992, f. 5-15-92, cert. ef. 7-1-92; TSE 10-1991, f. & cert. ef. 10-28-91; TSE 1-1985, f. & ef. 1-15-85

## 800-025-0040

### Designated Consultants

(1) A tax preparation business may not engage in the preparation of personal income tax returns for valuable consideration, or offer such services, until the business has designated a Licensed Tax Consultant or other authorized person ("Designated Consultant") as the responsible individual. A form prescribed by the Board shall be signed by the Designated Consultant and signed by the owner or authorized representative of the tax preparation business.

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

(3) 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.

(4) A Licensed Tax Consultant may act as the Designated Consultant for only one tax preparation business, except by Board approval for written application for waiver.

(5) An application for waiver to serve as a Designated Consultant for more than one (1) tax preparation business shall set forth the following:

(a) The name and address of the tax preparation business for which the Licensed Tax Consultant is presently serving as the Designated Consultant;

(b) The name and address of the additional tax preparation business for which the Licensed Tax Consultant 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.

(6) In determining whether a Licensed Tax Consultant will be approved to act as a Designated Consultant for more than one (1) tax preparation business, the Board:

(a) May approve an application for waiver only wherein the Licensed Tax Consultant has an ownership interest in the tax preparation business or unusual or extenuating circumstances exist resulting in undue hardship such as the death of a Designated Consultant. The Board may limit the Licensed Tax Consultant designation period; and

(b) Shall consider the Licensed Tax Consultant'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.

(7) A tax preparation business must notify the Board in writing within 15 business days of any change in status of its Designated Consultant.

(8) A Designated Consultant must notify the Board in writing within 15 business days of any change in their status as Designated Consultant.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.643 & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14 BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10 BTP 1-2009, f. & cert. ef. 2-5-09 BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2006, f. & cert. ef. 9-5-06; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; TSE 10-1992, f. & cert. ef. 12-22-92; TSE 11-1991, f. & cert. ef. 10-28-91; TSE 4-1989, f. & cert. ef. 12-20-89 TSE 1-1985, f. & ef. 1-15-85, Renumbered from 800-020-0050; TSE 3-1982, f. & ef. 11-19-82; TSE 2-1982, f. & ef. 5-10-82 TSE 3-1980, f. & ef. 8-22-80; TSE 8, f. & ef. 5-19-76

## **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 Tax Consultant. Supervision means:

(a) The direct and immediate control of the Licensed Tax Preparer by the Licensed Tax Consultant in such manner that the Licensed Tax Consultant is aware of the line of questioning and the reasoning applied by the Licensed Tax Preparer in the preparation of each return, and that the Licensed Tax Consultant has adequate opportunity to correct or add to the reasoning applied by the Licensed Tax Preparer; and

(b) A system of selecting, training and controlling the Licensed Tax Preparer, including having a set of procedures by which the Licensed Tax Consultant is assured that the Licensed Tax Preparer 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 Licensed Tax Consultant or a Licensed Tax Preparer chosen based on experience and reviewing ability; and

(B) Giving notice to the Licensed Tax Preparer 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 Licensed Tax Consultant (including telephone or electronic media access from branch offices) so that the Licensed Tax Preparer is encouraged to seek tax law consultation and advice; and

(E) Exercising control by the Licensed Tax Consultant over the tax preparation practices and all other matters governed by the statutes and Board rules in each principal and branch office.

(2) Licensed Tax Preparers who have not had at least 240 hours and one (1) year's 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.

(3) Licensed Tax Consultants who employ any person described in subsection (4) of ORS 673.610 to act in the capacity of Licensed Tax Preparer or Licensed Tax Consultant under their supervision shall report to the Board the names of these persons and the basis for their exemption from licensure.

(4) If a Licensed Tax Preparer is found by the Board to be in violation of the statutes or Board rules, the Licensed Tax Consultant responsible for supervision of that Licensed Tax Preparer 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 Licensed Tax Preparer, unless the Licensed Tax Consultant demonstrates to the satisfaction of the Board that the circumstances that led to the violation occurred without the permission or knowledge of the Licensed Tax Consultant 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.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.605–673.990

**History:** BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09  
BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; TSE 2-1996, f. & cert. ef. 12-30-96; TSE 1-1985, f. & ef. 1-15-85

## **800-025-0060**

### **Consultant in Residence**

(1) A Licensed Tax Consultant shall be in residence at each principal and branch office. "Tax consultant in residence" means that a Licensed Tax Consultant is physically present to conduct and carry out his/her duties in the principal or branch office for at least 50 percent of the time an office is open to the public for tax preparation, assistance, and advice during each week from January 1 to the federal filing deadline without extension and during each month for the remainder of the year for year round offices in accordance with OAR 800-025-0050.

(2) The Board may waive the Licensed Tax Consultant 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.

(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 Licensed Tax Consultant.

(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 Licensed Tax Preparers in the absence of a Resident Consultant.

(d) Sickness or death of a Licensed Tax Consultant; and

(e) Any other unusual or unforeseen circumstances making such waiver necessary.

(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 resulting in undue hardship, waiver applications will not be accepted after January 31 for branch offices intended to operate at any time during the period January 1 to the federal filing deadline without extension 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 the Board. Disapproval of an application by the Board may be appealed.

(6) The supervising Licensed Tax Consultant of an office for which a waiver has been approved shall meet in person with Licensed Tax Preparers in the office at least twice weekly to review the work of each Licensed Tax Preparer and respond to questions.

(7) A tax preparation business must notify the Board in writing within 15 business days of any change in status of its Resident Consultant.

(8) A Resident Consultant must notify the Board in writing within 15 business days of any change in their status as Resident Consultant.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.605–673.990

**History:** BTP 1-2017, f. & cert. ef. 1-27-17; BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTSE 1-2001, f. & cert. ef. 4-19-01; TSE 2-1996, f. & cert. ef. 12-30-96; TSE 5-1995, f. & cert. ef. 5-5-95; TSE 3-1988, f. & cert. ef. 8-26-88; TSE 6-1987, f. & ef. 10-2-87; TSE 5-1986, f. & ef. 10-6-86; TSE 1-1985, f. & ef. 1-15-85

## **800-025-0070**

### **Keeping of Records**

- (1) If a Licensed Tax Consultant is employed by another Licensed Tax Consultant, the records must be kept by the employing Licensed Tax Consultant.
- (2) If the Licensed Tax Consultant 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 must be retained by the corporation, firm, or partnership.
- (3) The records of the returns shall be kept for a period of not less than four (4) years after the date of the preparation, advice, or assistance.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.690 & 673.605–673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; TSE 1-1985, f. & ef. 1-15-85, Renumbered from 800-020-0070; TSE 8, f. & ef. 5-19-76

## DIVISION 30

## MISCELLANEOUS

### 800-030-0025

#### Civil Penalties

(1) Civil Penalty Ranges. Pursuant to ORS 673.735, a civil penalty in the following range shall be assessed for each violation of the following statutes and rules:

*NOTE: The Board has determined that the gravity of the following types of violations warrant at least the following minimum civil penalties for each violation committed.*

(2) Civil Penalty Factors. Pursuant to ORS 673.735, the following factors shall be considered in determining the amount of civil penalty to assess for each violation above the minimum established under paragraph (1) of this rule or for violations not specified in paragraph (1):

(a) The previous record of the person in complying, or failing to comply, with ORS 673.605 to 673.740, or any rule or order adopted there under.

(b) The harm to the consumer as a result of the violation.

(c) The person's knowledge of the statute, rule, or order violated. An intentional, reckless, or willful violation warrants a high civil penalty per violation.

(d) The person's lack of cooperation with the Board.

(e) The seriousness of the violations committed.

(3) Daily Civil Penalty. Pursuant to ORS 673.735, the Board may impose civil penalties of not more than \$5,000 for each violation of 673.605 to 673.740, or any rule adopted there under. In the case of violations of 673.615, 673.643, or 673.705(5), or OAR 800-010-0025(7) or 800-010-0042, the Board may consider each business day a person continues in violation following Board notification to be a separate violation.

(4) Civil Penalty Adjustment. The civil penalty amount to be imposed under this rule shall be lowered to an appropriate amount when the Board determines that the total civil penalties to be assessed against a person are grossly disproportionate to the seriousness of the violations committed.

*[ED. NOTE: Tables referenced are included at the end of this publication]*

**Statutory/Other Authority:** ORS 673.730

**Statutes/Other Implemented:** ORS 673.735

**History:** BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04; BTP 1-2004, f. 1-28-04, cert. ef. 2-1-04; BTP 1-2003, f. & cert. ef. 9-23-03; Reverted to BTSE 1-1998, f. & cert ef 9-3-98; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; BTSE 1-1998, f. & cert ef 9-3-98; TSE 1-1985, f. & ef. 1-15-85

### 800-030-0030

#### Inspections, Evaluations and Investigations

(1) A business owner shall allow Board representatives to inspect or evaluate the business/branch office or conduct an investigation. Obstructing or hindering the normal progress of an investigation, inspection or evaluation; threatening or exerting physical harm; or enabling another individual or employee to impede an investigation, inspection or evaluation may result in disciplinary action.

(2) Business owners must contact the Board within five (5) business days unless extenuating circumstances exist to make any necessary arrangements for an inspection, evaluation, or to allow the Board to conduct an investigation if the Board has been unable to perform an inspection, evaluation, or conduct an investigation because the business was closed when visited.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.605 - 673.990

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11

## **800-030-0035**

### **Board Meeting — Rules of Procedure**

(1) Board procedure shall be governed by Sturgis Standard Code of Parliamentary Procedure and rules adopted by the Board.

(2) There shall be an annual election of Chair and Vice-chair.

[Publications: Publications referenced are available from the agency.]

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.605 - 673.990

**History:** BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; TSE 1-1985, f. & ef. 1-15-85, Renumbered from 800-020-0085; TSE 8, f. & ef. 5-19-76

## **800-030-0045**

### **Board Meeting Minutes**

Minutes of all Board meetings shall be recorded and maintained in the Board Office. Copies may be purchased at cost.

**Statutory/Other Authority:** ORS 670.310(1) & 670.730(10)

**Statutes/Other Implemented:** ORS 673.605 - 673.990

**History:** TSE 1-1985, f. & ef. 1-15-85, Renumbered from 800-020-0080; TSE 8, f. & ef. 5-19-76

## **800-030-0050**

### **Obtaining Information and Purchasing Board-Provided Materials and Services**

Materials and services available to the public and licensees through the Tax Board may be obtained or purchased as follows:

(1) In response to telephone requests, the Board office may provide the tax practitioner name, license number, whether the license is active or expired, tax preparation business location, business telephone number and whether a discipline record exists.

(2) A copy of the Oregon Revised Statutes Chapter 673 and Oregon Administrative Rules Chapter 800 may be provided upon request at no charge for the first request. A charge will be assessed for additional/multiple copies.

(3) All requests for any information other than that listed in sub-section (1) and (2) of this rule must be submitted in writing to the Board office.

(4) The Board may charge for copies of its records. The types of records that the Board can charge for copies includes, but is not limited to, such material as copies of certificate(s), license(s), registration(s), Board meeting materials that are available to the public, general information, duplicating requests requiring multiple records search, or the compiling and creation of official documents.

(5) Fees shall not exceed the Board's actual costs for copying the record(s) requested including, but not limited to, the Board's cost for locating, compiling, making available for inspection, obtaining legal, or other professional advice related to the request, reviewing the records in order to delete exempt material, supervising a person's inspection of original records, preparing the copy in paper, audio, or electronic format, certifying documents as true copies, and delivery of such record(s).

(6) All fees assessed must be paid before public records are made available. Estimates/fees for processing requests for public records may be given when requested. Person(s) making the public records request is responsible for the actual costs regardless of the estimate.

(7) Persons who want to obtain copies of the following records may learn the charge for them by contacting the Board office:

(a) A list of names and addresses of active tax preparation business and branches.:

(b) A list of records, regardless of whether status is active, inactive, expired or archived;

(c) One (1) or more photocopies of any Board document or portion thereof;

(d) Copies of Board meeting minutes or committee meeting minutes/reports.

(8) Advertising services provided by the Board for a fee which can be obtained by contacting the Board office:

(a) Advertising for help-wanted, sale of a tax preparation business, and tax related services, or products in the Board newsletter;

(b) Advertising of Tax Consultant or tax preparation business on the Board Web site. Licensees and tax preparation businesses must be in good standing with the Board to obtain and maintain this service.

(c) All advertising is subject to the review and approval of the Board.

(9) Charges for records may be waived or substantially reduced if the request is in the public's interest, pursuant to ORS 192.440(4) & (5).

(10) The following fees apply to requests for the following types of public records, information, and services provided by the Board:

(a) Fee for a list of current licensees, which includes; license number, name, mailing address is \$25.

(b) Fee for a monthly subscription to a list of current licensees is \$120 per year. Lists provided between the 1<sup>st</sup> –10th of each month.

(c) Fee for duplicates of tape recordings of Board meetings, disciplinary hearings, etc. that are available to the public are \$5 each, plus labor at an hourly rate of \$25, mailing costs, and any Department of Justice costs that may need to be incurred.

(d) Fee for Board/committee meeting materials, available to the public, is:

(A) \$10 per Board/committee meeting minutes.

(B) \$5 per Board/committee notice and agendas.

(e) Fees for advertising for help-wanted and tax related services or products in Board newsletter:

(A) \$10 per 3 3/8 inch line or part line.

(B) \$350 for a full page ad.

(C) \$180 for a half page ad.

(D) \$100 for a quarter page ad.

(E) \$50 for a business card size ad.

(f) Fee for advertising of a tax consultant or tax preparation business or as an employee of a tax preparation business on the Board Web site:

(A) Name, business address (physical and e-mail), and phone is \$10 per year per county.

(B) An additional \$10 per county annual fee may be charged for a link to a tax preparation business related website.

(g) Fee for multiple records search including duplicating of documents is labor at an hourly rate of \$30, per page duplicating .05 cents, mailing costs, and any Department of Justice costs that may need to be incurred.

(h) Fee for making general photocopies is labor at an hourly rate of \$25, per page duplicating .05 cents, mailing costs, and any Department of Justice costs that may need to be incurred.

**Statutory/Other Authority:** ORS 192.440, 670.310(1) & 673.730(10)

**Statutes/Other Implemented:** ORS 192.440

**History:** BTP 1-2015, f. 1-16-15, cert. ef. 2-1-15; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 3-2004, f. 10-11-04 cert. ef. 11-1-04; BTP 1-2003, f. & cert. ef. 9-23-03; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-1999, f. & cert. ef. 11-23-99; TSE 6-1990, f. & cert. ef. 5-3-90; TSE 5-1986, f. & ef. 10-6-86

**Civil Penalty Matrix**  
**800-030-0025(1) - Footnote**

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 800-010-0017(1) 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 800-015-0015 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 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
ALL other ORS/OAR's not included above	\$0	\$5,000