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CHAPTER 800
STATE BOARD OF TAX PRACTITIONERS

FILING CAPTION: Update and clarification of Board of Tax Practitioners' Administrative Rules

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RULES:
800-010-0030, 800-010-0040, 800-010-0041, 800-010-0042, 800-010-0045, 800-010-0050, 800-015-0005, 800-015-0030, 800-020-0015, 800-020-0020, 800-020-0022, 800-020-0030, 800-020-0065, 800-025-0025, 800-025-0029, 800-025-0030, 800-025-0040, 800-025-0060, 800-025-0070, 800-030-0050

AMEND: 800-010-0030

RULE TITLE: Accountability

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Requires licensees to provide clients with at least one copy of the complete set of tax returns.

RULE TEXT:
(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 must 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

AMEND: 800-010-0040

RULE TITLE: Identification

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Moved the requirement to provide clients with one copy of their complete tax return from this rule section to OAR 800-010-0030.

RULE TEXT:
(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

AMEND: 800-010-0041

RULE TITLE: Address and Telephone

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must.

RULE TEXT:

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

AMEND: 800-010-0042

RULE TITLE: Communications

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must.

RULE TEXT:

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

AMEND: 800-010-0045

RULE TITLE: Experience and Competence

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must.

RULE TEXT:

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

AMEND: 800-010-0050

RULE TITLE: Advertising and Solicitation

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies that promotional items of de minimis value are not required to have a license number printed on them.

RULE TEXT:

(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: ORS 673.730(7), 673.730(10)

STATUTES/OTHER IMPLEMENTED: ORS 673.730(7), 673.605 - 673.990

AMEND: 800-015-0005

RULE TITLE: Basic Education

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies that all private career schools must be licensed by the Oregon Higher Education Coordinating Commission (HECC).

RULE TEXT:

(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 must 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

AMEND: 800-015-0030

RULE TITLE: Continuing Education and Basic Sponsor Requirements

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies requirements for educational program sponsors.

RULE TEXT:

(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

AMEND: 800-020-0015

RULE TITLE: Application for Examination

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies requirements and process to verify work experience.

RULE TEXT:

(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

AMEND: 800-020-0020

RULE TITLE: Examinations

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies process of notifying exam applicants of eligibility to take a licensing exam

RULE TEXT:

(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 so constructed as 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. 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. 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.

STATUTORY/OTHER AUTHORITY: ORS 673.310(1), 673.730(10)

STATUTES/OTHER IMPLEMENTED: ORS 673.625–673.640

AMEND: 800-020-0022

RULE TITLE: Examination Conduct; Disqualification

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies requirement that Board approval is required to disqualify a licensing examinee for prohibited behavior.

RULE TEXT:

(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

AMEND: 800-020-0030

RULE TITLE: Licenses — Renewals and Reactivation

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies requirements and process to reactivate a lapsed license.

RULE TEXT:

(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

AMEND: 800-020-0065

RULE TITLE: Displaying of Licenses

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must.

RULE TEXT:

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

AMEND: 800-025-0025

RULE TITLE: Renewal of Tax Preparation Business Registration

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to will.

RULE TEXT:

(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 the public, 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

AMEND: 800-025-0029

RULE TITLE: Displaying Business Registration

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must.

RULE TEXT:

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

AMEND: 800-025-0030

RULE TITLE: Branch Offices

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to may.

RULE TEXT:

(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

AMEND: 800-025-0040

RULE TITLE: Designated Consultants

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must or may.

RULE TEXT:

(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

AMEND: 800-025-0060

RULE TITLE: Consultant in Residence

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must.

RULE TEXT:

(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

AMEND: 800-025-0070

RULE TITLE: Keeping of Records

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Changed shall to must.

RULE TEXT:

(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 must 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

AMEND: 800-030-0050

RULE TITLE: Obtaining Information and Purchasing Board-Provided Materials and Services

NOTICE FILED DATE: 05/21/2019

RULE SUMMARY: Clarifies that business and branch addresses may be requested by the public.

RULE TEXT:

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 businesses 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 1st–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